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# STANDING COMMITTEES

AND

# RULES

OF THE

# CONSTITUTIONAL CONVENTION.

CHARLESTON;

HENRY S. WALKER, CONVENTION PRINTER.

1872.

# STANDING COMMITTEES.

## 1.—COMMITTEE ON BILL OF RIGHTS AND ELECTIONS.

Messrs. Woods, Pate, Davenport, Arnett, Ferguson, Calfee, Ferrell, McCleary, Pugh, Harding, Randolph and Kantner.

## 2.—COMMITTEE ON LEGISLATIVE DEPARTMENT.

Messrs. Haymond, Hoge, Brown, Knight, Maslin, Waggener, Prince, Miller, Criswell, Staton and Strickler.

## 3.—COMMITTEE ON EXECUTIVE DEPARTMENT.

Messrs. Johnson, (of Wood,) Pannell, Monroe, Morgan, McCreery, Hall, Robinson, Roberts, Stump, Farnsworth and Snider.

## 4.—COMMITTEE ON JUDICIARY.

Messrs. Faulkner, Armstrong, Wheat, Jackson, (of Wood,) Willey, Mathews, Fitzhugh, Ward, Wilson, Johnson, (of Tyler,) and Holt.

## 5.—COMMITTEE ON COUNTY ORGANIZATION.

Messrs. Byrne, Osburn, Campbell, Thompson, Dickinson, Smith, Byrnside, Lurty, Jackson, (of Lewis,) Thornburg and Allen.

## 6.—COMMITTEE ON TAXATION, FINANCE, EDUCATION, &c.

Messrs. Travers, Pendleton, Moffett, Bee, Peerce, Boggs, Gallaher, Warth, Hagans, Haynes and Crim.

## 7.—COMMITTEE ON MISCELLANEOUS PROVISIONS.

Messrs. Cushing, Bassel, Martin, Atkinson, Core, Randolph, Leonard, Pipes, Thayer and Park.

## 8.—COMMITTEE ON LAND TITLES, &c.

Messrs. Armstrong, Jackson, (of Wood,) Wilson, Brown, Holt, Mathéws, Knight, Ward and Smith.

## 9.—COMMITTEE ON ACCOUNTS.

Messrs. Hagans, Osburn, Martin, Waggener and Thornburg.

# RULES OF THE CONSTITUTIONAL CONVENTION.

1. The President of the Convention shall take the chair every day precisely at the hour to which the Convention shall have adjourned the day preceding; shall immediately call the members to order, and on the appearance of a quorum shall cause the Journal of the preceding day to be read for correction. He shall preserve *order and decorum;* may speak to points of order in preference to other members—rising from his seat for that purpose; shall decide questions of order, subject to an appeal to the Convention; shall daily examine and correct the Journal before it is read; shall have a general direction of the hall; may call any member to the chair to perform its functions not exceeding one day; shall set apart seats in the hall for the members of the Legislature and of the Executive of this State, for the judges of this State and of the United States, and for such other persons as he may think proper to invite within the hall; for any disturbance or disorder amongst spectators in the hall or gallery, he or the chairman of the committee of the whole, (as the case may be,) shall have power to order the same to be cleared; he shall appoint all committees not otherwise ordered; shall promptly call members to order for transgressing the rules; and when two or more members rise at the same time to address the Chair, shall name the one who is to speak, taking care, however, always to allow a member who rises and addresses the Chair first, to speak first.

2. No member shall absent himself from the service of the Convention, unless he be sick and unable to attend, or leave of absence be granted him by the Convention.

3. A member about to speak or deliver any matter to the Convention, shall rise *from his seat,* and without advancing, shall, with due respect, address "Mr. President," confining himself strictly to the point in debate, avoiding all personality and indecent and disrespectful language.

4. No member, while addressing the Convention, shall call another member by name.

5. No member shall speak more than *twice* to the same question without leave, nor more than *once* until every other member intending to speak shall have spoken.

6. The rules of parliamentary practice comprised in Jefferson's Manual shall govern the Convention in all cases to which they are applicable, and when not inconsistent with the rules and orders of the Convention.

7. The Secretary shall draw up the Journals of the Convention daily, which shall be printed, and one copy shall be delivered to the President and one to each member without delay. He shall not suffer any member, or other person, to take any records or papers from his table or out of his custody.

8. A question once determined must stand as the judgment of the Convention, and shall not again be drawn into debate, except on a motion for the reconsideration thereof. But no motion for the reconsideration of any vote shall be in order after the expiration of two business days; and such motion shall be made by a member voting with the majority, and shall take precedence of all other questions, except a motion to adjourn.

9. While the President is reporting or putting a question, none shall entertain private discourse, read, stand up, walk into or out of the house; and when a motion to lie on the table is made there shall be no debate upon that, or any incidental question arising out of it, excepting an appeal.

10. No member shall vote upon any question touching his own conduct or privilege as a member, but shall be entitled to vote, or change his vote, upon all other questions before the result of the vote is announced from the chair.

11. A majority of the members of the Convention shall be necessary to transact business, and every question shall be determined according to the vote of the majority of the members present. Any smaller number shall be sufficient to adjourn, and fifteen to call a house, and send for the absentees and make any order for their censure or discharge.

12. A majority of any committee shall be necessary to transact business.

13. Any person who shall tamper with any witness in respect to his evidence to be given in this Convention, or before any of its committees, or who shall directly or indirectly attempt to deter or hinder any person from appearing, or giving evidence, shall be deemed to have committed a high crime, and shall be punished accordingly.

14. No person shall be taken into custody by the Sergeant-at-Arms on any complaint of a breach of privilege until the matter of such complaint shall be examined by a committee and reported to the Convention.

15. The Sergeant's fees shall be as follows: For taking a person into custody, two dollars; for every day detained in custody, two dollars; for sending a messenger to take any person in custody, by warrant from the President, eight cents per mile for going and the same for returning.

16. On a call of the House, the doors shall not be shut against any member until his name is once called and noted as an absentee, and the call of the whole House shall have been concluded.

17. When any member shall remain in his seat two days after leave of absence, such leave shall be void.

18. Any member (seven others concurring,) shall have the right to demand the ayes and noes upon any question, at any time before it be put, and in such case, the names of the members shall be called by the secretary in alphabetical order, and the ayes and noes entered respectively on the journal, and the question decided as a majority of votes shall thereupon appear. But after the ayes and noes are separately taken, and before they are counted and entered on the journal, the secretary shall read over the names of those who voted in the affirmative, and of those who voted in the negative, in order that any mistake in the listing of names and votes may be corrected.

19. The petitioner who contests the election of a member returned to serve in the Convention shall receive his wages only from the day on which he is declared duly elected.

20. Select committees shall be composed of not less than five nor more than thirteen.

21. In elections, but one vacancy shall be filled at a time, and if, in any election, no person receive a majority of the whole vote upon the first ballot, the person having the smallest number of votes shall not be voted for upon the next ballot, and so on each succeeding ballot, until some person shall have a majority of the whole.

22. In all votes of the house, except by ayes and noes, the President may, and at the instance of any member shall, cause the house to be divided; and if, upon the rising of the members in the affirmative, a doubt still exists with the President, or any member, on which side the majority is, the members in the affirmative shall first be counted,

and then those in the negative, either by the President or, at his request, by two members of opposite opinions upon the question.

23. The documents ordered to be printed by the Convention shall be printed on paper of the same size of the journals of the Convention, and a copy shall be bound with each journal, to be furnished to the members at the end of the session; and it shall be the duty of the Printer of the Convention to print two copies for each member and one hundred additional copies of each document for the use of the State, unless otherwise provided in the resolutiou or order for printing.

24. No committee shall sit during the sessions of the Convention without special leave.

25. If any member, while speaking, transgress the rules of the Convention, the President shall, or any member may, call him to order, and the member so called to order shall immediately sit down, unless permitted to explain; and the Convention shall, if appealed to, decide on the case, but without debate. If there be no appeal, the decision of the Chair shall be submitted to; if the decision be in favor of the member, he shall proceed—if against him, he shall not procced, if any other member object, without leave of the Convention; and if the case require it, he shall be liable to the censure of the Convention.

26. If a member be called to order for words spoken in debate, the member calling him to order, shall repeat the words excepted to, and they shall be taken down in writing by the Secretary; and no member shall be held to answer, or be subject to the censure of the Convention for words spoken in debate, if any other member has spoken, or other business has intervened, before exception to them shall have been taken.

27. While a member is speaking, none shall entertain private discourse, or shall otherwise disturb him, or pass between him and the Chair.

28. Every member shall remain uncovered during the sessions of the Convention; and no member shall remain by the Secretary's table while the ayes and noes are being called, or while the Convention is voting, or the Secretary calling or counting the votes, in any election.

29. Every member who shall be in the house when a question is put shall vote, unless excused; and all motions to excuse, in such cases, shall be made before the House divides, or before the call of the ayes and noes is commenced; and any member requesting to be excused from voting, may make a brief verbal statement of his reasons, and the question shall then be taken without further debate.

30. Every motion shall be reduced to writing, if the President or any member desire it.

31. When a question is under debate no motion shall be received but to adjourn, for the previous question, to lie on the table, to postpone indefinitely, to adjourn the question to a different day, to commit or amend; which several motions shall have precedence in the order in which they are arranged.

32. Upon a call for the previous question, no member shall speak more than ten minutes. Unless such call be seconded by twenty members, indicated by rising, the President shall put no question; but if so sustained, a question shall be immediately put by the chair to this effect: "Shall the main question be now put?" If, on this question, a majority of the house vote in the affirmative, the chair shall thereupon put the pending question; and all incidental questions of order arising after a motion is made for the previous question, and pending the motion, shall be decided, whether on appeal or otherwise, without debate.

33. Any member may call for the division of a question, and it shall be thereupon divided, if it comprehend propositions in substance so distinct that one being taken away a substantive proposition shall remain for the decision of the house; but a motion to strike out being lost, shall not preclude a motion to strike out and insert.

34. When the Convention is about to rise, every member shall keep his seat until the President shall have announced the adjournment.

35. No rule of the Convention shall be altered or rescinded without the previous notice of one day; but any one admitted to the privilege of the floor of the Convention, by the President, may, at any time, be expelled therefrom for abuse of such privilege by a vote of a majority of the members present.

36. Any rule may be suspended for a specific purpose by the affirmative vote of two-thirds of the members present.

DEPARTMENT OF THE INTERIOR,
CENSUS OFFICE, WASHINGTON, December 9, 1871.

HON. A. I. BOREMAN,

*United States Senator:*

SIR: I have the honor to transmit herewith certified table showing the population of the State of West Virginia, white and colored, by counties, as determined by the census of 1870.

I am, sir,

Very respectfully,

Your obedient servant,

HENRY STONE,

*Acting Chief Clerk.*

WASHINGTON, D. C., Dec. 9, 1871.

HON. C. J. FAULKNER:

DEAR SIR: I have the pleasure of forwarding certified statement of Census Bureau as to the population of West Virginia, as requested a few days since.

Very truly, &c.,

A. I. BOREMAN.

# CENSUS OF WEST VIRGINIA.

*Population by Counties of State of West Virginia* (a) *from United States Census Report*, 1870.

TOTAL POPULATION 1870, 442,014—RANK IN POPULATION, NO. 27.

| COUNTIES. | AGGREGATE. | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | 1870. | 1860. | 1850. | 1840. | 1830. | 1820. | 1810. | 1800. | 1790. |
| Total | 442014 | 376688 | 302213 | 224537 | 176924 | 136768 | 105469 | 78562 | 55872 |
| Variances from former official totals | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Barbour | 10312 | 8958 | 9005 | ..... | ..... | ..... | ..... | ..... | ..... |
| Berkeley | 14900 | 12525 | 11771 | 10972 | 10518 | 11211 | 11479 | 22006 | 19713 |
| Boone (*d*) | 4553 | 4840 | 3237 | ..... | ..... | ..... | ..... | ..... | ..... |
| Braxton | 6480 | 4992 | 4212 | 2575 | ..... | ..... | ..... | ..... | ..... |
| Brooke | 5464 | 5494 | 5054 | 7948 | 7041 | 6631 | 5843 | 4706 | ..... |
| Cabell (*d*) | 6429 | 8020 | 6299 | 8163 | 5884 | 4789 | 2717 | ..... | ..... |
| Calhoun | 2939 | 2502 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Clay | 2196 | 1787 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Doddridge | 7076 | 5203 | 2750 | ..... | ..... | ..... | ..... | ..... | ..... |
| Fayette | 6647 | 5997 | 3955 | 3924 | ..... | ..... | ..... | ..... | ..... |
| Gilmer | 4338 | 3759 | 3475 | ..... | ..... | ..... | ..... | ..... | ..... |
| Grant (*b*) | 4467 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Greenbrier | 11417 | 12211 | 10022 | 8695 | 9006 | 7041 | 5914 | 4345 | c6015 |
| Hampshire (*e*) | 7643 | 13913 | 14036 | 12295 | 11279 | 10889 | 9784 | 8348 | 7346 |
| Hancock | 4363 | 4445 | 4050 | ..... | ..... | ..... | ..... | ..... | ..... |
| Hardy (*b*) | 5518 | 9864 | 9543 | 7622 | 6798 | 5700 | 5525 | 6627 | 7336 |
| Harrison | 16714 | 13790 | 11728 | 17669 | 14722 | 10932 | 9058 | 4848 | 2080 |
| Jackson | 10300 | 8306 | 6544 | 4890 | ..... | ..... | ..... | ..... | ..... |
| Jefferson | 13219 | 14535 | 15357 | 14082 | 12927 | 13087 | 11851 | ..... | ..... |
| Kanawha (*d*) | 22349 | 16150 | 15353 | 13567 | 9326 | 6399 | 3866 | 3238 | (*c*) |
| Lewis | 10175 | 7999 | 10031 | 8151 | 6241 | 4247 | ..... | ..... | ..... |
| Lincoln (*d*) | 5053 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Logan (*d*) | 5124 | 4938 | 3620 | 4309 | 3680 | ..... | ..... | ..... | ..... |
| Marion | 12107 | 12722 | 10552 | ..... | ..... | ..... | ..... | ..... | ..... |
| Marshall | 14941 | 12997 | 10138 | 6937 | ..... | ..... | ..... | ..... | ..... |
| Mason | 15978 | 9173 | 7539 | 6777 | 6354 | 1991 | ..... | ..... | ..... |
| McDowell | 1952 | 1535 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Mercer | 7061 | 6819 | 4222 | 2313 | ..... | ..... | ..... | ..... | ..... |
| Mineral (*e*) | 6332 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Monongalia | 13547 | 13048 | 12387 | 17368 | 14056 | 11060 | 12793 | 8546 | 4768 |
| Monroe | 11124 | 10757 | 10204 | 8422 | 7798 | 6580 | 5454 | 4188 | ..... |
| Morgan | 4315 | 3732 | 3557 | 4253 | 2694 | 2500 | ..... | ..... | ..... |
| Nicholas | 4458 | 4627 | 3963 | 2515 | 3346 | 1853 | ..... | ..... | ..... |
| Ohio | 28831 | 22422 | 18006 | 13357 | 15584 | 9182 | 8175 | 4740 | 5212 |
| Pendleton | 6455 | 6164 | 5795 | 6940 | 6271 | 4846 | 4239 | 3962 | 2452 |
| Pleasants | 3012 | 2945 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Pocahontas | 4069 | 3948 | 3598 | 2922 | 2542 | ..... | ..... | ..... | ..... |
| Preston | 14555 | 13312 | 11708 | 6866 | 5144 | 3422 | ..... | ..... | ..... |
| Putnam (*d*) | 7794 | 6301 | 5335 | ..... | ..... | ..... | ..... | ..... | ..... |
| Raleigh | 3673 | 3367 | 1765 | ..... | ..... | ..... | ..... | ..... | ..... |
| Randolph | 5563 | 4890 | 5243 | 6208 | 5000 | 3357 | 2854 | 1826 | 951 |
| Ritchie | 9055 | 6847 | 3602 | ..... | ..... | ..... | ..... | ..... | ..... |
| Roane | 7232 | 5381 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Taylor | 9367 | 7463 | 5367 | ..... | ..... | ..... | ..... | ..... | ..... |
| Tucker | 1907 | 1428 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Tyler | 7832 | 6517 | 5498 | 6954 | 4104 | 2314 | ..... | ..... | ..... |
| Upshur | 8023 | 7292 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Wayne (*d*) | 7852 | 6747 | 4760 | ..... | ..... | ..... | ..... | ..... | ..... |
| Webster | 1730 | 1555 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Wetzel | 8595 | 6703 | 4284 | ..... | ..... | ..... | ..... | ..... | ..... |
| Wirt | 4804 | 3751 | 3353 | ..... | ..... | ..... | ..... | ..... | ..... |
| Wood | 19000 | 11046 | 9450 | 7923 | 6429 | 5860 | 3086 | 1217 | ..... |
| Wyoming | 3171 | 2861 | 1645 | ..... | ..... | ..... | ..... | ..... | ..... |

(*a*) In 1863 organized from Virginia.
(*b*) Grant from Hardy.
(*c*) Greenbrier and Kanawha opposite Greenbrier.
(*d*) Lincoln from Boone, Cabell, Kanawha, Logan, Putnam and Wayne.
(*e*) Mineral from Hampshire.

| COUNTIES. | WHITE. | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | 1870. | 1860. | 1850. | 1840. | 1830. | 1820. | 1810. | 1800. | 1790. |
| Total | 424033 | 355526 | 278731 | 203016 | 157084 | 120236 | 93355 | 70894 | 50593 |
| Variances from former official totals | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Barbour | 9926 | 8728 | 8670 | ..... | ..... | ..... | ..... | ..... | ..... |
| Berkeley | 13228 | 10589 | 9566 | 8760 | 8323 | 9085 | 9760 | 17832 | 16650 |
| Boone | 4400 | 4681 | 3054 | ..... | ..... | ..... | ..... | ..... | ..... |
| Braxton | 6393 | 4885 | 4123 | 2509 | ..... | ..... | ..... | ..... | ..... |
| Brooke | 5367 | 5425 | 4923 | 7780 | 6774 | 6190 | 5472 | 4402 | ..... |
| Cabell | 6306 | 7691 | 5902 | 7574 | 5267 | 4388 | 2471 | ..... | ..... |
| Calhoun | 2931 | 2492 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Clay | 2192 | 1761 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Doddridge | 7041 | 5168 | 2718 | ..... | ..... | ..... | ..... | ..... | ..... |
| Fayette | 6529 | 5716 | 3780 | 3773 | ..... | ..... | ..... | ..... | ..... |
| Gilmer | 4311 | 3685 | 3403 | ..... | ..... | ..... | ..... | ..... | ..... |
| Grant | 4136 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Greenbrier | 10314 | 10500 | 8549 | 7287 | 7782 | 6163 | 5390 | 4046 | c5676 |
| Hampshire | 7003 | 12478 | 12379 | 10703 | 9796 | 9507 | 8731 | 7598 | 6879 |
| Hancock | 4336 | 4442 | 4040 | ..... | ..... | ..... | ..... | ..... | ..... |
| Hardy | 4902 | 8521 | 7927 | 6100 | 5408 | 4606 | 4579 | 5893 | 6556 |
| Harrison | 16058 | 13176 | 11213 | 16850 | 13887 | 10300 | 9448 | 4598 | 2013 |
| Jackson | 10242 | 8240 | 6480 | 4803 | ..... | ..... | ..... | ..... | ..... |
| Jefferson | 9731 | 10064 | 10476 | 9223 | 8435 | 8707 | 7967 | ..... | ..... |
| Kanawha | 20111 | 13785 | 12001 | 10910 | 7533 | 5297 | 3468 | 3001 | (c) |
| Lewis | 9979 | 7736 | 9620 | 7989 | 6056 | 4122 | ..... | ..... | ..... |
| Lincoln | 5017 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Logan | 5022 | 4789 | 3533 | 4159 | 3511 | ..... | ..... | ..... | ..... |
| Marion | 12029 | 12656 | 10439 | ..... | ..... | ..... | ..... | ..... | ..... |
| Marshall | 14821 | 12911 | 10050 | 6854 | ..... | ..... | ..... | ..... | ..... |
| Mason | 15444 | 8750 | 6841 | 5923 | 5776 | 4245 | 1742 | ..... | ..... |
| McDowell | 1952 | 1535 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Mercer | 6670 | 6428 | 4018 | 2127 | ..... | ..... | ..... | ..... | ..... |
| Mineral | 5954 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Monongalia | 13316 | 12901 | 12092 | 16962 | 13575 | 10568 | 12405 | 8359 | 4602 |
| Monroe | 10121 | 9536 | 9062 | 7457 | 7033 | 6009 | 4998 | 3987 | ..... |
| Morgan | 4199 | 3614 | 3431 | 4113 | 2519 | 2367 | ..... | ..... | ..... |
| Nicholas | 4427 | 4471 | 3889 | 2440 | 3224 | 1805 | ..... | ..... | ..... |
| Ohio | 28387 | 22196 | 17612 | 12842 | 15029 | 8720 | 7681 | 4468 | 4907 |
| Pendleton | 6361 | 5870 | 5443 | 6445 | 5752 | 4454 | 3952 | 3816 | 2378 |
| Pleasants | 2996 | 2925 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Pocahontas | 3810 | 3686 | 3303 | 2684 | 2298 | ..... | ..... | ..... | ..... |
| Preston | 14437 | 13182 | 11562 | 6743 | 4988 | 3336 | ..... | ..... | ..... |
| Putnam | 7534 | 5708 | 4693 | ..... | ..... | ..... | ..... | ..... | ..... |
| Raleigh | 3657 | 3291 | 1729 | ..... | ..... | ..... | ..... | ..... | ..... |
| Randolph | 5460 | 4793 | 5003 | 5799 | 4626 | 3166 | 2706 | 1739 | 932 |
| Ritchie | 8992 | 6809 | 3886 | ..... | ..... | ..... | ..... | ..... | ..... |
| Roane | 7209 | 5307 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Taylor | 9024 | 7300 | 5130 | ..... | ..... | ..... | ..... | ..... | ..... |
| Tucker | 1880 | 1392 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Tyler | 7822 | 6488 | 5456 | 6864 | 3991 | 2203 | ..... | ..... | ..... |
| Upshur | 7851 | 7064 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Wayne | 7699 | 6604 | 4564 | ..... | ..... | ..... | ..... | ..... | ..... |
| Webster | 1730 | 1552 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Wetzel | 8584 | 6691 | 4261 | ..... | ..... | ..... | ..... | ..... | ..... |
| Wirt | 4775 | 3728 | 3319 | ..... | ..... | ..... | ..... | ..... | ..... |
| Wood | 18287 | 10791 | 9008 | 7243 | 5501 | 4998 | 2585 | 1155 | ..... |
| Wyoming | 3130 | 2795 | 1583 | ..... | ..... | ..... | ..... | ..... | ..... |

| COUNTIES. | FREE COLORED. | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | 1870. | 1860. | 1850. | 1840. | 1830. | 1820. | 1810. | 1800. | 1790. |
| Total | 17980 | 2773 | 3082 | 3033 | 2167 | 1413 | 1278 | 526 | 61 |
| Variances from former official totals | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Barbour | 386 | 135 | 222 | ..... | ..... | ..... | ..... | ..... | ..... |
| Berkeley | 1672 | 286 | 249 | 293 | 276 | 228 | 190 | 203 | 138 |
| Boone | 153 | 1 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Braxton | 87 | 3 | ..... | 2 | ..... | ..... | ..... | ..... | ..... |
| Brooke | 97 | 51 | 100 | 77 | 39 | 58 | 39 | 16 | ..... |
| Cabell | 123 | 24 | 8 | 22 | 56 | 9 | 25 | ..... | ..... |
| Calhoun | 8 | 1 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Clay | 4 | 5 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Doddridge | 35 | 1 | 1 | ..... | ..... | ..... | ..... | ..... | ..... |
| Fayette | 118 | 10 | 19 | 18 | ..... | ..... | ..... | ..... | ..... |
| Gilmer | 27 | 22 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Grant | 331 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Greenbrier | 1103 | 186 | 156 | 194 | 65 | 92 | 30 | 2 | c20 |
| Hampshire | 640 | 222 | 224 | 189 | 153 | 103 | 124 | 120 | 13 |
| Hancock | 27 | 1 | 7 | ..... | ..... | ..... | ..... | ..... | ..... |
| Hardy | 616 | 270 | 256 | 391 | 223 | 180 | 497 | 111 | 411 |
| Harrison | 655 | 32 | 27 | 126 | 64 | 63 | 51 | 5 | ..... |
| Jackson | 58 | 11 | 11 | ..... | ..... | ..... | ..... | ..... | ..... |
| Jefferson | 3488 | 511 | 540 | 602 | 493 | 248 | 352 | ..... | ..... |
| Kanawha | 2238 | 181 | 212 | 97 | 76 | 29 | 46 | 7 | (c) |
| Lewis | 196 | 33 | 43 | 38 | 13 | 10 | ..... | ..... | ..... |
| Lincoln | 36 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Logan | 102 | 1 | ..... | ..... | 6 | ..... | ..... | ..... | ..... |
| Marion | 78 | 3 | 19 | ..... | ..... | ..... | ..... | ..... | ..... |
| Marshall | 120 | 57 | 39 | 37 | ..... | ..... | ..... | ..... | ..... |
| Mason | 534 | 47 | 51 | 46 | 45 | 30 | ..... | ..... | ..... |
| McDowell | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Mercer | 394 | 29 | 27 | 8 | ..... | ..... | ..... | ..... | ..... |
| Mineral | 378 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Monongalia | 231 | 46 | 119 | 146 | 119 | 117 | 37 | 18 | 12 |
| Monroe | 1003 | 107 | 81 | 97 | 83 | 70 | 70 | 12 | ..... |
| Morgan | 116 | 24 | 3 | 6 | 22 | 35 | ..... | ..... | ..... |
| Nicholas | 31 | 2 | 1 | 3 | 1 | ..... | ..... | ..... | ..... |
| Ohio | 444 | 126 | 230 | 303 | 19[illegible] | 43 | 54 | 15 | 24 |
| Pendleton | 94 | 50 | 30 | 38 | 23 | 11 | 25 | 14 | 1 |
| Pleasants | 16 | 5 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Pocahontas | 259 | 20 | 28 | 19 | 17 | ..... | ..... | ..... | ..... |
| Preston | 118 | 45 | 59 | 32 | 27 | 6 | ..... | ..... | ..... |
| Putnam | 260 | 13 | 10 | ..... | ..... | ..... | ..... | ..... | ..... |
| Raleigh | 16 | 19 | 13 | ..... | ..... | ..... | ..... | ..... | ..... |
| Randolph | 103 | 14 | 39 | 193 | 115 | 60 | 37 | 2 | ..... |
| Ritchie | 63 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Roane | 23 | 2 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Taylor | 343 | 51 | 69 | ..... | ..... | ..... | ..... | ..... | ..... |
| Tucker | 27 | 16 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Tyler | 10 | 11 | 4 | 5 | 5 | 11 | ..... | ..... | ..... |
| Upshur | 172 | 16 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Wayne | 153 | ..... | 7 | ..... | ..... | ..... | ..... | ..... | ..... |
| Webster | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Wetzel | 11 | 2 | 6 | ..... | ..... | ..... | ..... | ..... | ..... |
| Wirt | 29 | ..... | 2 | ..... | ..... | ..... | ..... | ..... | ..... |
| Wood | 713 | 79 | 69 | 56 | 51 | 10 | 1 | 1 | ..... |
| Wyoming | 41 | 2 | 1 | ..... | ..... | ..... | ..... | ..... | ..... |

| COUNTIES. | SLAVE. | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | 1870. | 1860. | 1850. | 1840. | 1830. | 1820. | 1810. | 1800. | 1790. |
| Total | ..... | 10371 | 20500 | 18488 | 17673 | 15119 | 10836 | 7172 | 4668 |
| Variances from former official totals | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Barbour | ..... | 95 | 113 | ..... | ..... | ..... | ..... | ..... | ..... |
| Berkeley | ..... | 1650 | 1956 | 1919 | 1919 | 1898 | 1529 | 3971 | 2932 |
| Boone | ..... | 158 | 183 | ..... | ..... | ..... | ..... | ..... | ..... |
| Braxton | ..... | 104 | 89 | 64 | ..... | ..... | ..... | ..... | ..... |
| Brooke | ..... | 18 | 31 | 91 | 228 | 383 | 332 | 288 | ..... |
| Cabell | ..... | 305 | 389 | 667 | 561 | 392 | 221 | ..... | ..... |
| Calhoun | ..... | 9 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Clay | ..... | 21 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Doddridge | ..... | 34 | 31 | ..... | ..... | ..... | ..... | ..... | ..... |
| Fayette | ..... | 271 | 156 | 133 | ..... | ..... | ..... | ..... | ..... |
| Gilmer | ..... | 52 | 72 | ..... | ..... | ..... | ..... | ..... | ..... |
| Grant | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Greenbrier | ..... | 1525 | 1317 | 1214 | 1159 | 786 | 494 | 297 | c319 |
| Hampshire | ..... | 1213 | 1433 | 1403 | 1330 | 1279 | 929 | 930 | 454 |
| Hancock | ..... | 2 | 3 | ..... | ..... | ..... | ..... | ..... | ..... |
| Hardy | ..... | 1073 | 1260 | 1133 | 1167 | 914 | 749 | 623 | 369 |
| Harrison | ..... | 582 | 488 | 693 | 771 | 569 | 459 | 245 | 67 |
| Jackson | ..... | 55 | 53 | 87 | ..... | ..... | ..... | ..... | ..... |
| Jefferson | ..... | 3960 | 4341 | 4157 | 3999 | 4132 | 3532 | ..... | ..... |
| Kanawha | ..... | 2184 | 3140 | 2560 | 1717 | 1073 | 352 | 234 | (c) |
| Lewis | ..... | 230 | 368 | 124 | 172 | 115 | ..... | ..... | ..... |
| Lincoln | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Logan | ..... | 148 | 87 | 150 | 163 | ..... | ..... | ..... | ..... |
| Marion | ..... | 63 | 94 | ..... | ..... | ..... | ..... | ..... | ..... |
| Marshall | ..... | 29 | 49 | 46 | ..... | ..... | ..... | ..... | ..... |
| Mason | ..... | 376 | 647 | 808 | 713 | 593 | 249 | ..... | ..... |
| McDowell | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Mercer | ..... | 362 | 177 | 98 | ..... | ..... | ..... | ..... | ..... |
| Mineral | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Monongalia | ..... | 101 | 176 | 260 | 362 | 375 | 351 | 163 | 40 |
| Monroe | ..... | 114 | 1061 | 868 | 632 | 501 | 376 | 189 | ..... |
| Morgan | ..... | 94 | 123 | 134 | 153 | 98 | ..... | ..... | ..... |
| Nicholas | ..... | 154 | 73 | 72 | 121 | 48 | ..... | ..... | ..... |
| Ohio | ..... | 100 | 164 | 212 | 360 | 419 | 440 | 257 | 281 |
| Pendleton | ..... | 244 | 322 | 462 | 496 | 381 | 262 | 132 | 73 |
| Pleasants | ..... | 15 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Pocahontas | ..... | 252 | 267 | 219 | 227 | ..... | ..... | ..... | ..... |
| Preston | ..... | 67 | 88 | 91 | 129 | 80 | ..... | ..... | ..... |
| Putnam | ..... | 580 | 632 | ..... | ..... | ..... | ..... | ..... | ..... |
| Raleigh | ..... | 57 | 23 | ..... | ..... | ..... | ..... | ..... | ..... |
| Randolph | ..... | 183 | 201 | 216 | 259 | 131 | 11 | 95 | 19 |
| Ritchie | ..... | 38 | 16 | ..... | ..... | ..... | ..... | ..... | ..... |
| Roane | ..... | 72 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Taylor | ..... | 112 | 168 | ..... | ..... | ..... | ..... | ..... | ..... |
| Tucker | ..... | 20 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Tyler | ..... | 18 | 38 | 85 | 108 | 100 | ..... | ..... | ..... |
| Upshur | ..... | 212 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Wayne | ..... | 143 | 189 | ..... | ..... | ..... | ..... | ..... | ..... |
| Webster | ..... | 3 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Wetzel | ..... | 10 | 17 | ..... | ..... | ..... | ..... | ..... | ..... |
| Wirt | ..... | 23 | 32 | ..... | ..... | ..... | ..... | ..... | ..... |
| Wood | ..... | 176 | 373 | 624 | 877 | 352 | 450 | 61 | ..... |
| Wyoming | ..... | 64 | 61 | ..... | ..... | ..... | ..... | ..... | ..... |

| | INDIAN. | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Total | 1 | 18 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Harrison | 1 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Preston | ..... | 18 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |

# THE JUDICIARY.

## PLAN OF MR. PRICE.

### ARTICLE 1.

1. The judicial power of the State shall be vested in the Court of Appeals, to consist of three Judges, in the Circuit Courts and the Judges thereof, the county and Corporation Courts and the Judge thereof, in Justices of the Peace and in the Magistrates who belong to corporate bodies.

The Legislature may also constitute special courts of appeals, to consist of not less than three, nor more than five Judges, constituted of a Judge of the Court of Appeals and of the Circuit Courts, or any of them, to try any case that may be on the docket of the Court of Appeals, in respect to which a majority of the Judges of the said court may be so situated as to make it improper for them to sit upon the hearing thereof; and, also, to try any cases on the said docket which cannot otherwise be disposed of with convenient dispatch.

2. The jurisdiction of these tribunals, of the Judges and Justices thereof, and of the magistrates of the corporate bodies, shall be regulated by law; except that the Court of Appeals shall have appellate jurisdiction only, unless in cases of *habeas corpus*, *mandamus* and prohibition. It shall not have jurisdiction in civil cases where the matter in controversy exclusive of costs, is less than one hundred dollars, except in controversies concerning the title or boundaries of land, the probate

of a will, the appointment or qualification of personal representative, guardian, committee or curator; or concerning a mill, road, way, ferry or landing, or the right of a corporation or of a county to levy tolls or taxes, or in cases involving freedom, or the constitutionality of a law; and except as the same may be limited by this constitution.

3. The State shall be divided into not less than eight circuits, which shall remain as established by the Constitution, until altered by the Legislature. For each circuit a judge shall be elected by the qualified voters thereof, who, during his continuance in office, shall reside in the circuit of which he is judge, and shall hold a court at least twice a year in every county and corporation thereof, wherein a circuit court is or may be established by law; but a judge of one circuit may hold a court in any other circuit. The number of circuits shall not be increased unless by the concurrent vote of a majority of the members elected to each house of the legislature.

4. The Judges of the Court of Appeals shall be nominated by the Governor and approved by a majority of each house of the Legislature. The Judges of the Court of Appeals and of the Circuit Courts shall be commissioned by the Governor, and shall hold their offices for a term of twelve years, or until removed in the manner prescribed in this Constitution; and shall at the same time hold no other office, appointment, or public trust; and the acceptance thereof by either of them shall vacate his judicial office.

5. The Judges shall receive fixed and adequate salaries which shall not be diminished during their continuance in office. The salaries of the Judges of the Court of Appeals shall not be less than ——— dollars each, per annum; and that of the Judges of the Circuit Courts not less than ——— dollars each per annum, and each shall have a reasonable allowance for necessary travel.

6. The Judges may be removed from office by a concurrent vote of both houses of the Legislature; but a majority of all the members elected to each house must concur in such vote, and the cause of removal shall be entered on the journal of each House. The Judge against whom the Legislature may be about to proceed, shall receive notice thereof in such manner as may be prescribed by law, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either house shall act thereon. When a trial shall have commenced it shall continue on to its close and the Legislature shall not be dissolved until the trial is ended, notwithstanding the time may elapse to which the length of the session was limited.

7. There shall be a County Court in each county of the State which shall be held in every other month of the year to consist of the Judge

of the Court and any two Justices or in the absence of the Judge by any three Justices of the county, except when the law may require a greater number to be present.

8. Each county shall be laid off into districts as nearly equal as may be in territory and population. In each district four Justices of the Peace shall be chosen by the qualified voters of the district, who shall be commissioned by the Governor; reside in their respective districts and hold their offices for the term of twelve years. At the first court after the election and qualification of the Justices under the constitution or as soon thereafter as may be, they shall proceed to elect some qualified citizen as Judge of the County Court, who thereupon shall be commissioned by the Governor as such, whose duty it shall be to preside at all meetings of the County Court. The Justices shall at the meeting aforesaid divide themselves into four classes, each class to consist of one Justice from each district to be numbered by lot. The term of service of the first class shall expire at the end of three years; of the second class at the end of six years; of the third class at the end of nine years, and of the fourth class at the end of twelve years; and this alternation shall be continued so that one fourth of the Justices may be chosen every three years. Vacancies occurring in the office of Judge of the County Court shall be filled by the Justices of the Peace for the unexpired term, and vacancies in the office of Justice of the Peace may be temporarily filled by the County Court, to expire when filled by the people at the next annual election. The Justices shall be classified for the performance of their duties in Court.

9. The Judge and Justices shall receive for their services in Courts, a per diem compensation to be ascertained by law, and paid out of the County Treasury.

The Justices may, also, receive fees for other services to be ascertained by law and paid by the parties for whom the services are rendered.

The per diem compensation of the Judge of the County Court shall not be less than five dollars.

10. The Legislature shall have power, to provide, by law, for the transfer of causes from the County Court to the Circuit Court, and so from the Circuit Court to the County Court. But the County Court shall have exclusive jurisdiction of appeals from the judgments of Justices of the Peace, and shall have concurrent jurisdiction of misdemeanors and civil cases at common law with the Circuit Court.

The Judges of the Court of Appeals shall, after their first appointment at their first meeting, divide themselves by lot, and the Judge

drawing lot No. one shall hold his office for four years; the Judge drawing lot No. two shall hold his office for eight years, and the Judge drawing lot No. three shall hold his office for twelve years, so that one Judge shall be appointed every four years after the first election, and this allotment shall be entered upon the records of said Court.

# THE JUDICIARY.

## PLAN OF MR. MATHEWS.

The Judicial power of this State shall be vested in a Supreme Court, Circuit Courts, County Courts, in Justices of the Peace, in such Corporation Courts as may be established by law, and in the Magistrates who belong to the corporate body.

### JUSTICES.

Every county shall be laid off into Magisterial Districts, each of which shall contain as nearly as practicable, a population of one thousand.

In each district there shall be elected by the voters thereof, one Justice of the Peace, who shall be commissioned by the Governor, reside in his district, and hold his office for the term of four years.

The civil jurisdiction of a Justice shall extend to actions of assumpsit, debt, detinue and trover, if the amount claimed, exclusive of interest, does not exceed one hundred dollars, when the defendant resides, or being a non-resident of the State, is found, or has effects or estate within his district, or when the cause of action arose therein; but any other Justice of the same county may issue a summons to the defendant to appear before the Justice of the proper district, which may be served by a Constable of either district.

In case of a vacancy in the office of justice in any district, or of the disability of the incumbent to act, any other justice of the same county may discharge the duties of his office within said district.

Every justice shall be a conservator of the peace throughout his county, and may have such jurisdiction to examine and send on for trial a person accused of an offence against the laws, as may by law be prescribed.

Jurisdiction of all misdemeanors and breaches of the peace punishable by fine not exceeding ten dollars, or by imprisonment for not more than thirty days, may be by law vested in the justices.

Justices shall have power to receive and certify the acknowledgment of deeds and other writings and to administer oaths. Either party to a civil suit brought before a justice, when the value in controversy or damages claimed exceeds twenty dollars shall be entitled to a trial by six jurors, if demanded.

In all cases an appeal shall lie from the judgment or proceedings of a justice except judgments in assumpsit, debt, detinue and trover and for fines when the amount does not exceed ten dollars exclusive of interest and costs, and when the case does not involve the constitutionality of a law or the right of a county or corporation to levy taxes or tolls.

The justices of each county shall assemble at the court-house thereof, once in each year to lay the county levy and to audit claims against the county. A majority of all the justices of the county shall constitute a quorum for this purpose.

## COUNTY COURTS.

The justices of each county shall be divided into classes, each class to be composed of three justices.

There shall be in each county a County Court, composed of three justices, and which shall hold a term each month. Each class of justices shall constitute and hold a Court in regular succession, to be determined by lot.

The County Court shall have jurisdiction to try appeals from the judgments of justices, and misdemeanors; to receive proof of wills and admit them to probate; to appoint personal representatives, guardians, committees and curators, to establish and regulate roads, public landings, ferries and mills and to grant ordinary and other licenses.

The County Court shall from time to time appoint the places of holding elections in the several districts of the county, and decide all questions involving the election, qualifications and returns of all county and district officers.

The justices shall receive for their services in the County Court a *per diem* compensation of three dollars, to be paid out of the county treasury, and shall not receive any fee or emolument for their judicial services.

## CIRCUIT COURTS.

The State shall be divided into nine circuits, and each circuit shall contain as nearly a practicable a population of fifty thousand, as follows:

First Circuit, &c.

Second Circuit, &c.

The Legislature may re-arrange the circuits after the expiration of five years from the adoption of this Constitution, but the number of Circuits shall not then be increased, and at periods of ten years thereafter when the population of any circuit exceeds one hundred thousand, the Legislature may divide the same into two circuits, and an additional Judge shall then be elected. The Judge of the divided circuit shall, after its division, be the Judge of that circuit in which he resides.

For each circuit a Judge shall be elected by the voters thereof, whose term of office shall be ten years. During his continuance in office he shall reside in the circuit of which he is judge. At least two terms of the Circuit Court shall be held each year in every county, and the number of terms and the time of holding the same shall be fixed by the Circuit Judges of the State, a majority of whom shall be a quorum for this purpose, and who shall be assembled for said purpose by the Governor as soon as possible after this Constitution goes into effect.

The said Judges shall thereafter assemble for the said purpose whenever a request to them to do so, signed by five Judges, shall have been published for four weeks in a newspaper published at the capital of the State.

The Circuit Courts shall have the supervision and control of all procedings before inferior tribunals by *mandamus*, *prohibition*, or *certiorari*. They shall have original and general jurisdiction of all matters at law wherein the amount in controversy, exclusive of interest, exceeds one hundred dollars, and of all cases in equity and of all crimes. They shall have appellate jurisdiction in all civil cases except appeals from the judgment of a justice, in cases wherein the amount in controversy does not exceed one hundred dollars, exclusive of interest, and which do not involve the constitutionality of a law, the right of a county or corporation to levy taxes or tolls, and in misdemeanors where there has been a conviction in the County Court.

## THE SUPREME COURT.

The Supreme Court shall consist of five judges, three of whom shall be a quorum.

They shall be elected by the voters of the State and hold their offices for a term of twelve years.

The Supreme Court shall have original jurisdiction in cases of *habeas corpus*, *mandamus*, *prohibition* and *certiorari*. It shall have appellate jurisdiction in civil cases where the matter in controversy, exclusive of costs, is of greater value or amount than two hundred dollars; in controversies concerning the title or boundary of land, the probate of wills, the appointment or qualification of a personal representative, guardian, committee or curator, or concerning a mill, road, way, ferry or landing, or the right of a county or corporation to levy taxes or tolls, and also in cases of *habeas corpus*, *mandamus* and *prohibition*, and cases involving the constitutionality of a law. It shall have appellate jurisdiction in criminal cases where there has been a conviction of a felony or misdemeanor in an inferior Court.

An appeal cannot be taken without permission of the Appellate Court or a Judge thereof in vacation, except in criminal cases including misdemeanors.

When a judgment or decree is reversed or affirmed by the Supreme Court, the reasons for such reversal or affirmance shall be stated in writing and preserved with the record of the case.

Judges shall be commissioned by the Governor.

The salary of a Judge of the Supreme Court shall be three thousand dollars.

The salary of a Judge of the Circuit Court shall be twenty-five hundred dollars.

No Judge shall hold any other office, appointment or public trust under this, or any other government, and the acceptance thereof shall vacate his judicial office.

Judges may be removed from office for misconduct, incompetence or neglect of duty, or on conviction of an infamous offence, by the judgment of the Court of Impeachment.

The officers of the Supreme Court shall be appointed by the courts or by the Judges thereof in vacation. Their duties, compensation and tenure of office shall be prescribed by law.

## COURT OF IMPEACHMENT.

The Senate shall be the Court of Impeachment, and when sitting as such court, shall be presided over by the President of the Supreme Court.

Whenever, from any cause, it would be improper for the President of the Supreme Court to preside over the Court of Impeachment, then the senior Judge of the Supreme Court, except the President, should he be the oldest, shall thus preside.

Articles of Impeachment shall be preferred by the House of Delegates. When the Senate is about to sit as such court, each member thereof shall take and subscribe a solemn oath or declaration, truly and impartiallly, to try and determine the charge, or charges, in question.

No conviction shall take place without the concurrence of two-thirds of the members present; nor shall judgment extend further than to removal from office. But the party convicted shall be liable to indictment and punishment according to law.

# THE JUDICIARY.

## PLAN OF MR. JOHNSON, OF WOOD.

*Resolved*, That the Committee on the Judiciary inquire into the expediency of adopting in substance the following judiciary system, to be incorporated into the new Constitution:

The judicial power of this State shall be vested in one Supreme Court, Circuit Courts, County Courts, and Justices of the Peace, and in such courts as may be created by law, in and for cities and incorporated towns.

The Supreme Court shall consist of five judges, to be elected by the people, and shall hold their offices for the term of ten years; and each shall receive a salary not to exceed twenty-five hundred dollars.

Add other necessary provisions as to jurisdiction, &c.

### CIRCUIT COURTS.

The State shall be divided into eight circuits, each circuit to be composed of contiguous counties, in as nearly compact form and as nearly equal as circumstances will permit, having due regard to business, territory and population.

A judge shall be elected for each circuit, who shall hold his office for the term of six years, and shall receive a salary not exceeding twenty-two hundred dollars. He shall hold two regular terms of his Court in each county each year.

Add other necessary provisions for jurisdiction, change of circuits, qualifications, &c.

## COUNTY COURTS.

In all counties having a population of fifteen thousand or upwards, there shall be for said county elected one County Judge, and one Clerk of the County Court, in every county of the State, whose term of office shall be four years, and where two or more contiguous counties have together a population of less than twenty thousand, a judge shall be elected for such district, who shall take the place of and exercise the powers and jurisdiction of County Judge in such districts. County Courts shall be Courts of Record, and shall have original jurisdiction in all matters of probate, settlement of estates of deceased persons, appointment of guardians, and shall audit all claims against the county, and shall have appellate jurisdiction to try cases sent up from the Justices; also, in all misdemeanor cases, and concurrent jurisdiction with the Circuit Courts in all civil cases where the amount in controversy does not exceed five hundred dollars, and such other jurisdiction as may be provided for by general law.

It shall be the duty of the Clerk of the County Court, once a year, as may be provided by law, to summon in one justice from each district or township of the county, who shall sit with the County Judge, (he to have no vote except when the justices are equally divided,) and shall lay the county levy, settle with all the officers of the county, grant or refuse licenses, and perform such other duties as may be required by law.

For their services, each County Judge shall receive out of the county treasury, and *pro rata* if he sits in several counties, a sum not to exceed five hundred dollars, and an additional compensation of two dollars in each civil case, to be paid in advance, by the plaintiff, at the commencement of the suit, which shall afterwards be taxed in the costs of the suit; but in no case shall he receive more than fifteen hundred dollars per year.

# THE JUDICIARY.

## PLAN OF MR. N. FITZHUGH.

### COURT OF APPEALS.

1. The judicial power of the State shall be vested in a Court of Appeals, and in Circuit Courts, and in such other courts as are authorized by this constitution.

2. The Court of Appeals shall consist of five judges, any three of whom shall be a quorum. They shall be elected by the voters of the State; and shall be so chosen, that one of said judges, at least, shall be selected from each of the Congressional Districts into which the State is now divided.

3. The judges of the Court of Appeals shall hold their offices for the term of fifteen years, except that of those chosen at the first election, one to be designated by lot, in such manner as the said judges shall themselves determine, shall hold his office for three years; one other to be designated in like manner, for six years; one other to be designated in like manner, for nine years; one other to be designated in like manner, for twelve years; and the other for fifteen years; so that one judge of the Court of Appeals shall be elected every three years after the first election.

4. The Court of Appeals shall have original jurisdiction in cases of *habeas corpus*, *mandamus* and *prohibition*. It shall, upon such terms, and in such manner as may be prescribed by law, have appellate jurisdiction in civil cases, when the matter in controversy, exclusive of costs, is of greater value or amount than ------ dollars; in controversies concerning the titles or boundaries of land; the probate of wills; the appointment or qualification of a personal representative, guardian, committee, or curator; concerning a mill, road, way, ferry,

or landing, or the right of a corporation or county to levy tolls or taxes; and also in cases of *habeas corpus, mandamus* and *prohibition*; and cases involving freedom, or the constitutionality of a law. It shall also have appellate jurisdiction in criminal cases, where there has been a conviction for felony or misdemeaner in a circuit court; and such other appellate jurisdiction in both civil and criminal cases, as may be prescribed by law.

5. When a judgment or decree is reversed, or affirmed, by the Court of Appeals, every point fairly arising upon the record of the case, shall be considered and decided, and the reasons therefor shall be concisely and briefly stated in writing, and preserved with the record of the case. But no decision rendered by the Court of Appeals shall be regarded as binding authority upon any of the courts of this State (except in the particular case in which said decision was rendered,) unless it was concurred in and decided, by at least three judges of said court.

6. The officers of the Court of Appeals, including a reporter, shall be appointed by said court, or the judges thereof, in vacation. Their duties, compensation, and tenure of office shall be prescribed by law.

## CIRCUIT COURTS.

7. The State shall be divided into eight circuits. The counties of Hancock, Brooke, Ohio, Marshall and Wetzel shall constitute the First Circuit; the counties of Monongalia, Marion, Preston, Taylor, Harrison and Doddridge shall constitute the Second Circuit; the counties of Tyler, Pleasants, Wood, Ritchie, Wirt, Calhoun, Gilmer and Roane shall constitute the Third Circuit; the counties of Lewis, Upshur, Barbour, Tucker, Randolph, Pendleton, Grant and Mineral shall constitute the Fourth Circuit; the counties of Hardy, Hampshire, Morgan, Berkeley and Jefferson shall constitute the Fifth Circuit; the counties of Braxton, Clay, Nicholas, Webster, Pocahontas, Greenbrier, Fayette and Summers shall constitute the Sixth Circuit; the counties of Monroe, Mercer, Wyoming, Raleigh, McDowell, Boone, Logan, Lincoln and Wayne shall constitute the Seventh Circuit; and the counties of Kanawha, Cabell, Putnam, Mason and Jackson shall constitute the Eighth Circuit.

8. The Legislature may, from time to time, re-arrange the circuits, and may increase the number of circuits, or the number of terms of the courts to be held in each county, at the end of five years from the adoption of this Constitution, and thereafter at periods of ten years: *Provided*, that the number of circuits shall not be increased beyond twelve.

9. For each circuit a judge shall be elected by the voters thereof, who shall hold his office for the term of twelve years. During his continuance in office he shall reside in the circuit of which he is a judge.

10. A Circuit Court shall be held in each county twice a year, unless otherwise provided by law, in pursuance of the eighth section of this article. The judge of one circuit may be required to hold a court in another circuit.

11. The Circuit Courts shall have the supervision and control of all proceedings before justices and other inferior tribunals by *mandamus*, *prohibition*, or *certiorari*. They shall, except in cases confided exclusively by this Constitution to some other tribunal, have original and general jurisdiction in all cases, civil and criminal; and they shall have appellate jurisdiction in all cases where an appeal, writ of error, or supersedeas may be allowed to the judgments or proceedings of an inferior tribunal. They shall also have such other jurisdiction, whether supervisory, original, appellate, or concurrent, as may be prescribed by law.

12. The voters of each county shall elect a clerk of the Circuit Court, whose term of office shall be six years. His duties and compensation, and the mode of moving him from office and of filling any vacancy in said office, shall be prescribed by law.

## GENERAL PROVISIONS.

13. Judges of the Court of Appeals and Circuit Courts shall be commissioned by the Governor. The salary of a Judge of the Court of Appeals shall be three thousand dollars, and that of a Judge of the Circuit Court, twenty-five hundred dollars.

14. No Judge, during his term of service, shall hold any other office, appointment or trust, under this or any other government, and the acceptance thereof shall vacate his judicial office. Nor, shall he, during his continuance therein, be eligible to any political office therein.

15. At every regular election of the Governor, an Attorney-General shall, also, be elected by the voters of the State. He shall be commissioned by the Governor, and shall perform such duties and receive such compensation as may be prescribed by law, and be removable by impeachment.

16. The Legislature shall provide by law, for holding the elections for Judges of the Court of Appeals, and Circuit Courts; and shall so arrange the time for holding such elections that they shall not occur on the same day appointed by law for holding any other election.

17. No appeal, writ of error or supersedeas shall lie, in any case, from the Circuit Court, to the Court of Appeals, as a matter of right, but the same may be allowed on petition, upon such terms as may be prescribed by law.

# THE JUDICIARY.

## PLAN OF MR. WARD.

### ARTICLE I.

1. The Judicial power of this State shall be vested in a Court
2 of Appeals, Circuit Courts, County Courts, Justices of the Peace,
3 and such inferior tribunals as the Legislature may authorize.

2. The Court of Appeals shall consist of four Judges, one to
2 be chosen by the legally authorized voters of each of the Grand
3 Divisions of the State. They shall be commissioned by the Gov-
4 ernor, hold their office for the term of —— years, have a salary of
5 two thousand dollars, and receive for necessary travel the same
6 allowance made to members of the Legislature, but it shall not be
7 necessary for a Judge of the Court of Appeals to reside in the
8 Division from which he is chosen, and the Legislature may provide
9 that a portion of the Judges at the first election, be chosen for a
10 shorter term.

3. Three Judges of the Court of Appeals shall constitute a quo-

rum for the transaction of business, but no judgment rendered by said Court shall be of any validity unless three of the sitting Judges concur therein.

4. A Judge of the Circuit Court may be called to sit as a Judge of the Court of Appeals in the following cases.

First. When the court may have equally divided in a matter they may have had under consideration.

Second. Where one of the Judges has an interest in the matter before them.

Third. Where one of the Judges may have died, and before the appointment or election and qualification of a successor.

Fourth. Where, from sickness or other cause, one of the Judges of the Court of Appeals shall be absent.

A Judge of the Circuit Court shall receive for his services whilst acting as Judge of the Court of Appeals a compensation to be fixed by law, and not to exceed eight dollars per diem.

5. The Court of Appeals shall have appellate jurisdiction on petition and assignment of error, in civil cases where the matter in controversy, exclusive of costs, is of greater value or amount than one hundred dollars; in controversies concerning the title or boundaries of lands, the probate of wills, the appointment or qualification of a personal representative, committee or curator, or concerning a mill, way, road, or landing, or the right of a corporation or county to levy tolls or taxes; and, also, in cases of *habeas corpus*, *mandamus* and inhibition; and in cases involving freedom

or the constitutionality of a law; in criminal cases where there has been a conviction for a felony or misdemeanor in a Circuit Court; and such other appellate jurisdiction as may be prescribed by law, and shall have original jurisdiction in cases of *habeas corpus*, *mandamus*, and writs of prohibition.

6. When a judgment or decree is reversed or affirmed by the Court of Appeals, every point made and distinctly stated in writing in the cause and fairly arising upon the record in the case, shall be considered and decided, and the reasons therefor shall be concisely and briefly stated in writing and preserved with the records of the case.

7. No judge shall, during his term of service, practice the profession of law in this State, nor shall he hold any office, appointment or public trust under this or any other government, and the acceptance of any such office or appointment shall vacate his judicial office; nor shall he, during his continuance therein be eligible to any political office.

Judges of the Court of Appeals and Circuit Courts shall be commissioned by the Governor, and may be removed from office by impeachment, for corruption, incapacity, incompetency, or on conviction of an infamous offence; but no article of impeachment shall be preferred against a judge until a notice accompanied by a copy of the charges shall have been seryed upon him at least twenty days. Articles of impeachment may be preferred in the House of Delegates, and if concurred in by a majority of all the

members elected to that body may be certified to the Senate, and he shall be regularly tried before that body, and if found guilty by two-thirds of all the members elected to the Senate, shall be removed from office.

8. The officers of the Court of Appeals shall be appointed by the court or the judges thereof in vacation, and their compensatson and term of service prescribed by law.

There shall be four grand divisions of the State.

The counties of.....

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shall compose the first division.

The counties of.....

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shall compose the second division.

The counties of.....

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shall compose the third division.

The counties of.....

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shall compose the fourth division.

9. Each grand division shall be divided into two circuits, and each circuit into two districts.

The counties of.....

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of the first division, shall compose the first circuit.

The counties of.....

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of the first division, shall compose the second circuit.

The counties of.....

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of the second division, shall compose the third circuit.

The counties of.....

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of the second division, shall compose the fourth circuit.

The counties of.....

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of the third division, shall compose the fifth circuit.

The counties of.....

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.....

of the third division, shall compose the sixth circuit.

The counties of.....

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29 .....

30 of the fourth division, shall compose the seventh circuit.

31 The counties of.....

32 .....

33 .....

34 of the fourth division, shall compose the eighth circuit.

10. The counties of.....

2 .....

3 .....

4 of first circuit shall compose the first district of the first circuit.

5 The counties of.....

6 .....

7 .....

8 of first circuit shall compose the second district of the first circuit.

9 The counties of.....

10 .....

11 .....

12 of second circuit shall compose the first district of the second circuit.

13 The counties of.....

14 .....

15 .....

16 of second circuit shall compose the second district of the second

17 circuit.

18 The counties of.....

19 .....

20 .....

of third circuit shall compose the first district of the third circuit.

The counties of.....

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of third circuit shall compose the second district of the third circuit.

The counties of.....

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of the fourth circuit shall compose the first district of the fourth circuit.

The counties of.....

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of the fourth circuit shall compose the second district of the fourth circuit.

The counties of.....

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of the fifth circuit shall compose the first district of the fifth circuit.

The counties of.....

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of the fifth circuit shall compose the second district of the fifth circuit.

The counties of.....

46 .....

47 .....

48 of the sixth circuit shall compose the first district of the sixth cir-

49 circuit.

50 The counties of.....

51 .....

52 .....

53 of the sixth circuit shall compose the second district of the sixth

54 circuit.

55 The counties of.....

56 .....

57 .....

58 of the seventh circuit shall compose the first district of the seventh

59 circuit.

60 The counties of.....

61 .....

62 .....

63 of the seventh circuit shall compose the second district of the

64 seventh circuit.

65 The counties of.....

65 .....

66 .....

67 of the eighth circuit shall compose the first district of the eighth

68 circuit.

69 The counties of..... .....

of the eighth circuit shall compose the second district of the eighth circuit.

From each circuit a Judge shall be elected who shall hold his office for the term of———years, and during his continuance in office shall reside in the circuit from which he is chosen.

A Circuit Court shall be held in each county at least twice in each year. They shall have the supervision of all proceedings before the County Courts and other inferior tribunals, by *mandamus*, *prohibition* or *certiorari*.

They shall, except in all cases confided exclusively by this Constitution to some other tribunal, have original and general jurisdiction of all matters of law, where the amount in controversy, exclusive of interest, exceeds the sum of twenty dollars, and of all cases of equity and of all crimes and misdemeanors.

They shall have appellate jurisdiction in cases, civil and criminal, where an appeal or writ of error or supersedeas may be allowed to the judgment or proceedings of the County Court, and such other jurisdiction as may by law be conferred upon it.

From each district a judge shall be elected by the qualified voters for the term of four years, to be called the Judge of the County Court, who shall during his continuance of office, reside in the district of which he is judge and shall receive a salary of $——— to be levied for and collected from the people of the counties composing his district. The judge of the circuit of which said

district is part, shall apportion the salary of the district judge among the several counties of the district by an order entered of reco in the circuit court of each county in the district.

The Legislature may prescribe fees to be collected from the business transacted in the county courts, to be collected and set apart by each county to pay its proportionate part of the salary of the judge of the county court.

The county courts shall have original and appellate jurisdiction in all cases where the county courts had jurisdiction in the State of Virginia in the year 1860, and such other jurisdiction as shall be conferred upon it by law, except that said courts shall not have power to lay the county levy but in conjunction with a majority of all the justices of the peace of said county.

The judge of the county court shall, by order entered of record in his court, cause all the justices of his county to be summoned to meet at the court house and form a court once in each year, for the purpose of laying the county levy. At such court the judge may preside but shall have no vote, unless the justices constituting the same shall be equally divided in opinion upon the matter before them.

Three-fourths of all the qualified justices of the county shall constitute a quorum for the transaction of business, and may proceed to lay the levy whether the judge be present or not.

A county court shall be held in each county once in every two months, with same jurisdiction of the monthly term of the county courts of Virginia in the year 1860, and at every alternate term

shall have the jurisdiction of the quarterly terms of said court, and shall do and perform the business formerly done by said quarterly courts.

Clerks of the circuit and county courts shall be elected by the qualified voters of each county, and their duties shall be prescribed by law.

# THE JUDICIARY.

*A plan to organize the Judiciary system of the State of West Virginia, proposed by Samuel Woods and Benjamin F. Martin.*

## ARTICLE ——.

1. The Judicial power of the State shall be vested in one Supreme
2 Court of Appeals, circuit courts, county courts and such inferior
3 courts as may be established by law, and the Judges thereof and
4 justices of the peace; which courts shall be courts of record,
5 having general jurisdiction, to be defined, limited and regulated by
6 law, in accordance with this Constitution. Justices of the peace
7 may also be invested with limited judicial powers; and municipal
8 courts may be created to administer the regulations of incorpora-
9 ted towns and cities, subject to appeal to the circuit courts; and
10 to exercise such other jurisdiction and perform such other duties
11 as may be prescribed by law.

### SUPREME COURT OF APPEALS.

2. The Supreme Court of Appeals shall consist of five judges,
2 any three of whom shall be a quorum, who shall be citizens of the
3 United States and of this State, and shall be elected by the voters

of the State, and hold their offices for the term of ten years, unless sooner removed in the manner prescribed in this Constitution. The judges first elected under this Constitution shall allot among themselves their terms of office, so that the term of one of them shall expire in two years, one in four years, one in six years, one in eight years, and one in ten years, and after the first election one judge of the said Court shall be elected every two years, to serve for the term of ten years.

3. Every vacancy in the office of Judge of the Supreme Court of Appeals shall be filled by election for the remainder of the vacant term, unless it would expire at the next election; and until so filled, or when it would so expire, the Governor shall fill the vacancy by appointment.

4. The Supreme Court of Appeals shall have original jurisdiction, only, in cases of *Habeas, Corpus, Mandamus* and *Prohibition.* It shall have appellate jurisdiction in civil causes, where the matter in controversy exclusive of costs is of greater value or amount than two hundred dollars; in controversies concerning the title or boundaries of land; the probate of wills; the appointment, qualification or removal of a personal representative, guardian, curator or committee; or concerning a mill, road, way, ferry, or landing; or the right of a corporation or county to levy tolls or taxes; and also in cases of *Habeas Corpus, Mandamus* and *Prohibition*; and cases involving the constitutionality of a law. It shall also have appellate jurisdiction in criminal cases, where there has been a conviction for felony or misdemeanor in a circuit court; or where such

conviction has been had in any inferior court and the same has been affirmed in a circuit court. When a judgment or decree is reversed or affirmed by the Supreme Court of Appeals, every point made and distinctly stated in writing in the cause, and fairly arising upon the record thereof, shall be considered and decided, and the reasons therefor shall be concisely and briefly stated in writing, and preserved with the records of the case.

5. When any judge of the Court of Appeals is so situated in regard to any case pending before it, as to make it improper for him to aid in the trial of the same, or is under any other disability, the remaining judges shall consider and decide the case.

6. The officers of the Supreme Court of Appeals shall be appointed by the Court, or by the judges thereof in vacation. Their duties, compensation and term of office shall be prescribed by law.

CIRCUIT COURTS.

7. The State shall be divided into seven circuits. The first shall be composed of the counties of.....

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the second of.....

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the third of.....

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the fourth of.....

12 .....

13 .....;

14 the fifth of.....

15 .....

16 .....;

17 the sixth of.....

18 .....

19 .....;

20 the seventh of.....

21 .....

22 .....

8. The Legislature may, from time to time, re-arrange the Cir-
2 cuits, and after the expiration of five years from the time this Con-
3 stitution goes into operation, and thereafter, at periods of ten years,
4 may increase or diminish the number of Circuits.

9. For each Circuit a Judge shall be elected by the voters there-
2 of, who shall hold his office for the term of six years. During his
3 continuance in office he shall reside in the Circuit of which he is
4 Judge; but no re-arrangement of the Circuits shall have the effect
5 to remove a judge from office, or require him to change his resi-
6 dence. A Circuit Court shall be held in every county twice a year;
7 and a judge of any Circuit may hold the court in any other Cir-
8 cuit.

10. The Circuit Courts, except in cases confided exclusively by
2 this Constitution to some other tribunal, shall have original and
3 general jurisdiction of all matters at law, where the matter in con-

troversy, exclusive of interest exceeds twenty dollars; and of all cases in equity; and of all crimes and misdemeanors. They shall have appelate jurisdiction in all cases, civil and criminal, where an appeal, writ of error or supersedeas, may be allowed to the judgment or proceedings of any inferior tribunal, except justices of the peace. They shall, also, have such other jurisdiction, whether original, appellate or concurrent, as may be prescribed by law.

11. All Judges shall be commissioned by the Governor. The salary of all Judges shall be two thousand dollars per annum which shall be paid quarterly, and he shall receive no other allowance. No Judge during his term of service shall hold any other office, appointment, or public trust under this or any other government, and the acceptance thereof shall vacate his judicial office; nor shall he during his continuance therein be eligible to any political office.

12. Judges may be removed from office for official misconduct, gross immorality, imcompetence, neglect of duty, or on conviction of an infamouse offense, by the vote of a majority of two-thirds of all the members elected to each branch of the Legislature, and the cause of removal shall be entered on their journals. The Judge against whom the Legislatnre may be about to proceed shall receive notice thereof accompanied with a copy of the causes alleged for his removal, at least thirty days before the day on which either branch of the Legislature shall act thereon.

13. When any Judge of the Circuit Court is so situated in regard to any case pending before it as to make it improper for him to sit

on the trial thereof, or is under any other disability, the members of the bar then present, practicing in said court, shall immediately proceed to the election of a Judge *pro tempore* for the trial of said cause, who shall, for the purposes thereof, be clothed with all the authority of the Judge of said court.

COUNTY COURTS.

14. There shall be in each county of the State a county court which shall be composed of the President of the court and two justices of the peace, a majority of whom shall constitute a court. The President of the court shall be elected by the voters of the county, and shall hold his office for the term of four years.

15. Every county shall be divided into not less than three, nor more than ten districts, laid off as compactly as practicable, with reference to natural boundaries, and containing as nearly as practicable an equal number of population, in each of which the voters thereof shall elect two justices of the peace, who shall reside in their respective districts and hold their offices for the term of four years; and the justices of the peace shall be classified by law for the performance of their duties in court. And, until changed, the present sub-divisions of the several counties shall constitute such districts.

16. The President of the county court shall preside over its deliberations, and for his services in court shall receive four dollars per diem; and the justices of the peace for their services in court shall each receive two dollars per diem, to be paid by the county. The President of said court shall also perform such other duties and receive such compensation therefor as may be prescribed by law.

17. The county court shall have original jurisdiction concurrent with the circuit court, at law, in all civil causes, and in crimina l causes under the grade of felony. It shall also have the administration of the internal affairs and fiscal concerns of the county, including the establishment and regulation of roads, public landings, ferries and mills, the granting of ordinary and other licenses, the laying, collecting and disbursement of the county levies; and shall exercise such other jurisdiction, and perform such other duties as may be prescribed by law.

18. The county court for the trial of causes, shall hold four terms in each year, and for the administration of the internal affairs and fiscal concerns of the county, one term to which all the justices shall be summoned; but a majority thereof shall be a quorum, and sufficient to transact such business, and less than a majority may adjourn from time to time until there be a quorum.

19. The voters of each county shall elect a clerk of the circuit court, and a clerk of the county court, whose terms of office shall each be four years. Their duties, compensation and the mode of removing them from office shall be prescribed by law. Vacancies occurring in the office of clerk of any court shall be filled by the said courts respectively, or by the judges thereof, and the clerk so appointed shall continue in office until a clerk has been elected and qualified.

JUSTICES.

20. The civil jurisdiction of a justice of the peace shall be coextensive with his county and extend to actions of assumpsit, debt,

detinue and trover if the amount claimed, exclusive of interest, does not exceeed one hundred dollars. Every justice shall be a conservator of the peace throughout his county, and have such jurisdiction and powers in criminal cases as may be prescribed by law.

21. In all cases an appeal shall lie under such regulations as may be prescribed by law from the judgment or proceedings of a justice, to the county court of his county.

# THE JUDICIARY.

## PLAN OF JAMES S. WHEAT, OF OHIO COUNTY.

1. The Judicial power of the State shall be vested in a Supreme Court of Appeals, Circuit Courts, County Courts, Justices of the Peace, and such other inferior tribunals as are herein authorized.

2. A court to be known and designated as "The Supreme Court of Appeals of West Virginia," shall consist of five judges, any three of whom shall be a quorum, to be nominated and confirmed in the manner hereinafter provided. They shall hold their offices for the term of fifteen years, except that of those first nominated and confirmed, one, to be designated by lot, in such manner as they may determine, shall hold his office for three years; another, to be designated in like manner, for six years; another, to be disignated in like manner, for nine years; another, to be designated in like manner, for twelve years; and the fifth for fifteen years; so that one shall be nominated and confirmed every three years.

3. At the first session after the adoption of this Constitution, the Legislature shall, by law, arrange the counties of the State in four grand divisions, to be numbered respectively first, second, third and fourth; each of the grand divisions shall be formed by contiguous counties, and, as nearly as may be, of equal population. It shall thereupon be the duty of the Governor to nominate to the Legislature a Judge of the Supreme Court of Appeals for each grand division, and a fifth for the State at large, who shall be the President Judge of said Court; each of whom shall have been a resident voter of this State for not less than five years preceding his nomination, and not less than thirty-five years of age. After any such nomination shall have been

confirmed and approved by the vote of a majority of all the members elected to each branch of the Legislature, the said Judge shall be commissioned by the Governor. Each of the Judges nominated for the several grand divisions, and approved and confirmed by the Legislature, shall reside within the grand division for which he may have been nominated, approved and confirmed.

4. The Supreme Court of Appeals shall have original jurisdiction in cases of *habeas corpus*, *mandamus* and *prohibition*. It shall have appellate jurisdiction in civil cases where the matter in controversy, exclusive of costs, is of a greater value or amount than one hundred dollars; in controversies, concerning the title or boundaries of land, the probate of wills, the appointment or qualification of a personal representative, guardian, committee or curator; or concerning a mill, road, way, ferry or landing, or the right of a corporation or county to levy tolls or taxes; and also in cases of *habeas corpus*, *mandamus* and *prohibition*, and cases involving freedom or the constitutionality of a law. It shall have appellate jurisdiction where there has been a conviction of felony in a Circuit Court, or the affirmance in a Circuit Court of a conviction and judgment in a County Court, in a prosecution for a petit larceny or misdemeanor; and such other jurisdiction, in both civil and criminal cases, as may be prescribed by law, not inconsitent with or repugnant to this article. A writ of error, surpersedas or appeal, shall only be awarded or allowed by the Supreme Court of Appeals or a judge thereof, upon a petition assigning errors in the judgment or proceedlngs of an inferior Court, and then only after the Court, or a judge thereof, shall have fully examined and considered the record and assignment of errors.

5. No decision rendered by the Supreme Court of Appeals, shall be considered as binding authority upon any of the inferior Courts of this State, (except in the particular case in which the decision was rendered,) unless it was concurred in and decided by at least three judges of said Court. When a judgment or decree is reversed or affirmed by the Supreme Court of Appeals, every point fairly arising upon the record of the case, shall be considered and decided; the reasons therefor shall be briefly and concisely stated in writing, and preserved with the record of the case; and it shall also be the duty of the Court to prepare a syllabus of the points thus decided in each case, to be prefixed to the published report thereof.

6. The officers of the Supreme Court of Appeals, including a reporter, shall be appointed by the Court, or by the Judges thereof, in vacation, with the power of removal. Their duties and compensation shall be prescribed by law.

7. There shall be two terms of the Court of Appeals, to be held an-

nually, at such times and places, and with such an assignment and apportionment of the cases on its docket, as may be prescribed by law.

8. At the first session, after the adoption of this Constitution, the Legislature shall arrange the counties of each grand division into two Circuits; the circuits to be numbered respectively, first, second, third, fourth, fifth, sixth, seventh and eighth; to be formed of contiguous territory, and as nearly as may be of equal population. It shall, thereupon, be the duty of the Governor to nominate to the Legislature a judge for each of said Circuits who shall have been a resident voter of the State for not less than five years preceding his nomination, and shall not be less than thirty years of age. After such nomination shall have been approved and confirmed by the vote of a majority of all the members elected to each branch of the Legislature, the said judges shall be severally commissioned by the Governor. Each of said judges shall reside within the Circuit for which he may have been thus nominated, approved and confirmed, and shall hold his office for the term of ten years.

9. The Circuit Courts shall respectively be known and designated by the name of "The Circuit Court for the county of ——;" shall have the supervision and control of all proceedings before the County Court, Justices and other inferior tribunals, by *mandamus, prohibition* or *certiorari.* They shall, except in cases confided exclusively by this Constitution to some other tribunal, have original and general jurisdiction of all matters at law where the amount in controversy, exclusive of interest, exceeds one hundred dollars, and of all cases in equity; and shall have exclusive jurisdiction of all felonies, excepting petty larcenies. They shall have appellate jurisdiction in all civil cases where the amount in controversy, exclusive of interest and costs shall exceed twenty dollars, where an appeal, writ of error or supersedeas may be allowed to the judgment or proceedings of the County Courts. They shall also have such other jurisdiction, whether supervisory, appellate or concurrent, as may be prescribed by law.

10. The Legislature may from time to time rearrange the circuits upon the plan and basis presented in the eighth section of this article; and after the expiration of ten years from the time this Constitution goes into operation, may increase or diminish the number of circuits, or increase the number of courts in a year, as necessity may require.

11. A Circuit Court shall be held in each county twice in each year, unless otherwise prescribed by law, in pursuance of the power granted to the Legislature by the tenth section of this article. The Legislature may, by law, require or authorize the circuit judges to hold special terms of their courts, when required or necessary for the dispatch of business and due administration of justice; to hold the courts of their

respective circuits alternately; and a judge of one circuit to hold a court of any other circuit.

12. The salary of a Judge of the Supreme Court of Appeals shall be not less than three thousand dollars, and that of a Judge of a Circuit Court shall be not less than twenty-five hundred dollars, nor shall the salary of any judge be increased or diminished during his continuance in office; and each shall receive the same allowance for necessary travel, in the discharge of their official duties, as the members of the Legislature.

13. No judge, during his term of office, shall hold any other office, appointment or public trust, under this or any other government, and the acceptance of any such office, appointment or public trust shall vacate his office and commission as judge; nor shall a judge during his term of office, accept or be a candidate for any political office.

14. The Judge of each circuit shall nominate to the Board of Commissioners of each county in his circuit a Clerk for the Circuit Court of each county, who shall be a citizen voter of said circuit, and resident therein not less than five years; and upon the approval and confirmation of said nomination by a majority of the Board of Commissioners, duly certified to the Circuit Court for the county and entered upon the records thereof, the person so nominated, approved and confirmed, shall thereupon be the Clerk of said Court, after giving such bond and taking such oath or affirmation as may be prescribed by law. His term of office shall continue until he shall be removed by the order of the Court, or the Judge thereof in vacation, with the consent and concurrence of a majority of the Board of Commissioners of the county. The Clerk shall give such bond, take such oaths or affirmations, perform such duties and receive such compensation as may be prescribed by law. Any vacancy in the office of Clerk shall be filled in the mode herein prescribed for making the original appointment.

15. At its first session after the adoption of this Constitution, the Legislature shall arrange the counties of each circuit into two or more districts. A court shall be held in each county of said district, to be known and designated as "The County Court for the county of ——." In each of said districts shall be elected by the qualified voters thereof, on a day to be prescribed by law, on which day no other election shall be held, a judge for the county or counties comprising said district, who shall be the sole judge of the County Court for the county, or each of the counties in his district, and shall be commissioned by the Governor. His term of office shall be five years, and he shall receive such salary or compensation as may be ascertained and fixed for each county in his district by the Board of Commissioners thereof.

Any vacancy in the office of judge of the county court, shall be filled for the unexpired term, by the Board of Commissioners of the county on the concurring vote of the several Boards of Commissioners of the counties comprising the district.

16. The county courts shall have original and exclusive jurisdiction of all misdemeanors and petty larcenies, upon presentments to be preferred by the prosecuting attorney; and all prosecutions for the recovery of fines and penalties, whether imposed by acts of the Legislature, or the ordinances of a city or incorporated town duly authorized by law. They shall also have original and general jurisdiction of all matters at law, where the amount in controversy, exclusive of interest, exceeds twenty dollars, and all cases in equity. They shall also have appellate jurisdiction in all civil cases, from the judgments of Justices of the Peace, where the amount in controversy, exclusive of interest and costs, shall exceed ten dollars, in such manner and upon such terms as may be prescribed by law. They shall have authority to receive the proof of wills and admit them to Probate, to appoint and qualify personal representatives, guardians, committees and curators; with such other jurisdiction, both original and appellate, as may be prescribed by law, not inconsistent with or repugnant to this article.

17. The Recorder of each county, shall be the Clerk of the County Court for said county; and as such Clerk, shall give such bond, perform such duties, and receive such compensation as may, by law, be prescribed for the Clerks of the Circuit Courts.

18. The Clerks of the Supreme Court of Appeals, Circuit and County Courts, shall respectively be authorized to appoint a clerk, with the approval of his court, in such manner and upon such terms as may be prescribed by law.

19. Vacancies in the office of judge of either the Supreme Court of Appeals or of any Circuit Court, for the unexpired term of either of said offices, shall be filled by the nomination of the Governor and the approval and confirmation of the Legislature, as hereinbefore provided, and if any such vacancy shall occur during the recess of the Legislature, the same shall be filled by the appointment of the Governor until the next succeeding session of the Legislature, when such appointment shall be submitted to the Legislature for approval and confirmation. If either branch of the Legislature shall refuse to approve and confirm the said appointment, then shall the said vacancy be filled for the unexpired term of said office, by the nomination by the Governor, and approval and confirmation of the Legislature as hereinbefore provided.

20. Judges may be removed from office for mis-conduct, incompetence, or neglect of duty, or on conviction of an infamous offence.

The House of Delegates shall have the sole power of impeachment, and the Senate shall have the sole power to try all impeachments. Articles of impeachment against a judge shall be preferred by the vote of a majority of all the members elected to the House of Delegates; shall distinctly set forth the charge, or charges, with proper specification, or specifications, sustaining such charge, or charges, so clearly stated, as to enable the judge so impeached to answer thereto. Such articles of impeachment shall be presented at the bar of the Senate by five Managers, four of whom shall be appointed by the House of Delegates, and the fifth shall be the Attorney General of the State. When sitting as a Court of Impeachment, each Senator shall be on oath or affirmation, and the President Judge of the Supreme Court of Appeals shall preside, but without the right to vote. If the President Judge of the Supreme Court of Appeals be impeached, the other judges of that Court, shall designate by lot, one of their number to preside over the Senate, when sitting as a Court of Impeachment. The Senate may sit as a Court of Impeachment during the recess of the Legislature. The judge against whom the House of Delegates shall prefer articles of impeachment, shall be furnished with a copy thereof, and shall receive not less than thirty days notice of the day on which the Senate will sit as a Court of Impeachment, he may appear by counsel, and may have witnesses for his defense, compulsorily summoned at the expense of the State. No conviction or judgment thereon, by the Senate sitting as such Court of Impeachment, shall be had, unless upon the concurring vote of not less than two-thirds of all the members elected to the Senate. The Legislature shall, by law, prescribe the compensation, including mileage for necessary travel of senators, managers, witnesses, and all officers of the Court of Impeachment, and such other matters as may be needful and proper to carry this section into effect.

21. The civil jurisdiction of a Justice of the Peace shall extend to actions of assumpsit, debt, detinue and trover, if the amount claimed, exclusive of interest, does not exceed one hundred dollars; but where the amount thus claimed shall exceed twenty dollars, on the application of the defendant, in person or by counsel, made at any time before trial or judgment, it shall be the duty of the Justice of the Peace to transmit the papers in the case to the clerk of the county court, to be docketed in said court, and therein prosecuted as may be prescribed by law.

22. The number of Justices of the Peace, the subdivisions of each county within which they shall be elected, their terms of office and compensation, shall be prescribed by law. The Justices of the Peace, shall be conservators of the peace throughout their county, and shall

have such jurisdiction and powers in criminal cases as may be perscribed by law.

23. At every regular election of Governor, an Attorney-General shall, also, be elected. He shall be commissioned by the Governor, shall perform such duties, and receive such compensation as may be prescribed by law; he shall be removable for the same causes, and in the same manner as the judges.

24. The Legislature may establish courts of limited jurisdiction, within any incorporated town or city, subject to appeal to the Circuit Courts.

# REPORT

Of the Committee on the "Bill of Rights" and Elections, with amendments made in "Committee of the Whole."

## ARTICLE I.

### THE STATE.

1. The State of West Virginia is, and shall remain one of the United States of America. The Constitution of the United States of America, and the laws and treaties made in pursuance thereof, shall be the supreme law of the land.

2. The territory of the following counties, formerly parts of the Commonwealth of Virginia, shall constitute and form the State of West Virginia, viz:

The counties of Barbour, Berkeley, Boone, Braxton, Brooke, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hancock, Hardy, Harrison, Jackson, Jefferson, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, McDowell, Mercer, Mineral, Monongalia, Monroe, Morgan, Nicholas, Ohio, Pendleton, Pleasants, Pocahontas, Preston, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Wayne, Webster, Wetzel, Wirt, Wood and Wyoming. The State of West Virginia includes the bed, bank and shores of the Ohio and Big Sandy rivers—formerly included in the Common-

wealth of Virginia—and all territorial rights and property in, and jurisdiction over the same, heretofore reserved by and vested in the Commonwealth of Virginia, are vested in and shall hereafter be exercised by the State of West Virginia. And so much of the said beds, banks and shores as lies opposite and adjoining the several counties of this State shall form a part of said several counties respectively.

3. The Legislative, Executive and Judicial departments of the government shall be separate and distinct. Neither shall exercise the powers properly belonging to either of the others. No person shall be invested with or exercise the power of more than one of them at the same time.

4. Writs, grants and commissions issued under the authority of this State shall run in the name of, and official bonds shall be made payable to, the State of West Virginia. Indictments shall conclude "against the peace and dignity of the State" [of West Virginia].

5. All persons residing in this State, [who were] born or naturalized in the United States, shall be citizens of this State, but no person in the military, naval or marine service of the United States shall be deemed a resident of this State, by reason of being stationed therein.

6. Every citizen shall be entitled to equal representation in the government, and in all apportionments of representation, equality of numbers of those entitled thereto shall as far as practicable be preserved.

# ARTICLE II

## BILL OF RIGHTS.

1. The powers of government reside[s] in all the citizens of the State, and can be rightfully exercised only in accordance with their will and appointment.

2. The privilege of the writ of *habeas corpus* shall not be suspended. No person shall be held to answer for treason, felony or other crime not cognizable by a justice, unless on presentment or indictment of a grand jury. No bill of attainder, *ex post facto* law, or law impairing the obligation of a contract, or having a retrospective operation or effect, shall be passed.

3. Excessive bail shall not be required, or excessive fines imposed or cruel and unusual punishment inflicted. Penalties shall be proportioned to the character and degree of the offense, [nor] "*no*" [shall any] person "*shall*" be transported out of "*or forced to leave*" the State for any offense committed within the same; nor shall any person "*in any criminal case*" be compelled to be a witness against himself, or be twice put in jeopardy for the same offense.

4. The right of the citizens to be secure in their houses, persons papers and effects against unreasonable searches and seizures, shall not be violated. No warrant shall issue upon probable cause, unless supported by oath or affirmation, and particularly describing the place to be searched, [and] "*or*" the person and things to be seized.

5. No law abridging freedom of speech or of the press shall be

passed; but the Legislature may provide for the restraint and punishment of the publishing or vending of obscene books, papers or pictures, and of libel and defamation of character, and for the recovery in civil actions by the aggrieved party of suitable damages for such libel or defamation.

6. In prosecutions, and civil suits for libel, the truth may be given in evidence; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the verdict shall be for the defendant.

7. Private property shall not be taken or damaged for public use without just compensation, nor shall the same be taken [or damaged] by any company incorporaten for the purposes of internal improvement, until just compensation shall [be] "*have been*" paid "*or secured to be paid*" to the owner; and when private property [is to] "*shall*" be taken or damaged for public use or for the use of such corporations, the compensation to the owner shall be ascertained [by an impartial jury of twelve freeholders] in such manner as may be prescribed by "*general*" law "*provided that when it is required by either of the parties, such compensation shall be ascertained by an impartial jury of twelve freeholders.*"

8. No person shall be deprived of life, liberty or property, without due process of law, or the judgment of his peers; "*political test oaths requiring persons, as a prerequisite of the enjoyment of their civil and political rights, to purge themselves by their own oaths of past alleged offences, are repugnant to the principles of free government, and are cruel and oppressive,*" [nor shall any] "*no*" religious

or political test oath "or *any other oath shall*" be required as a "*prerequisite or*" qualification to vote, serve as a juror, sue [or be sued,] plead, [or be impleaded,] "*appeal*" or pursue any profession or employment.

9. The military shall be subordinate to the civil power. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war except in the manner to be prescribed by law.

10. In suits at common law the right of trial by a jury of twelve men, if required by either party, shall be preserved, but in trials of civil cases before a justice of the peace, [when the value in controversy is under twenty dollars, a jury of a less number may be authorized by law,] "*no jury shall be allowed.*" No fact tried by a jury shall be otherwise re-examined in any case, than according to the rules of the common law.

11. The trials of crimes, and "*of*" misdemeanors, unless "*herein*" otherwise provided, shall be by a jury of twelve men, and shall be held publicly, and without unreasonable delay, in the county where the alleged offence was committed, unless upon petition of the accused and for good cause shown it is removed to some other county. In all such trials the accused shall be fully and plainly informed of the character and cause of the accusation and "*be*" confronted with the witnesses against him, and shall have "*reasonable time to prepare for his defence, procure*" the assistance of counsel [for his defense] and "*there shall be awarded to him*" compulsory process for obtaining witnesses in his favor.

12. No man shall be compelled to frequent or support any religious worship, place or ministry whatsoever; nor shall any man be enforced, restrained, molested or burthened in his body or goods, or otherwise suffer on account of his religious opinions or belief; but all men shall be free to profess, and, by argument, to maintain their opinions in matters of religion; and the same shall, in no wise, affect, diminish or enlarge their civil capacities, and the Legislature shall not prescribe any religious test whatever, or confer any peculiar privileges or advantages on any sect or denomination; or pass any law requiring or authorizing any religious society or the people of any district within this State, to levy on themselves or others any tax for the erection or repair of any house for public worship, or for the support of any church or ministry, but *"it shall be"* left free for every person to select his religious instructor, and to make for his support, such private contract as he shall please.

13. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court. Treason shall be punished according to the character of the acts committed, by the infliction of one or more of the penalties of death, imprisonment or fine, as may be prercribed by law.

14. No distinction shall be made between resident aliens and citizens in regard to the mode of acquiring, holding, disposing or transmitting property.

15. The right of the people to assemble in a peaceable manner to consult for the common good, to instruct their representatives, or to apply for redress of grievances, shall be held inviolate.

16. The provisions of the Constitution of the United States, and of this State, apply as well in time of war, as in time of peace, and any departure therefrom, or violation thereof, under the plea of necessity, or any other plea, is subversive of good government, and tends to anarchy and despotism. "*The people of this State have the inherent, sole and exclusive right of regulating the internal government and police thereof.*"

17. The courts of this State shall be open, and every person, for an injury done him in his person, property or reputation, shall have remedy by due course of law; and justice shall be administered without sale, denial or delay.

18. No free government, or the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality and virtue, and by a frequent recurrence to fundamental principles.

19. "*No conviction shall work corruption of blood or forfeiture of estate.*"

20. "*No hereditary emoluments, honors or privileges, shall ever be granted or conferred in this State.*"

## ARTICLE III.

### ELECTIONS AND OFFICERS.

1. The male citizens of the State shall be entitled to vote at all elections held within [election districts,] "*the counties,*" in which they respectively reside; but no person who [illegible] minor, or of unsound mind, or a pauper, or who is under conviction of treason, felony, or bribery in an election, or who has not been a resident of the State for one year, and of the county in which he offers to vote for [thirty] "*sixty*" days next preceding such offer, shall be permitted to vote while such disability continues.

2. In all elections by the people the mode of voting shall be by ballot.

3. No voter, during the continuance of an election at which he is entitled to vote, or during the time necessary and convenient for going to and returning from the same, shall be subject to arrest upon civil process, or be liable to attend any court or judicial proceeding as suitor, juror or witness; or to work upon the public roads, or, except in time of war or public danger, render military service.

[4. Any citizen entitled to vote may be elected or appointed to any State, county or municipal office, but the Governor and Judges must have attained the age of thirty, and the Attorney General and Senators the age of twenty-five years at the beginning of their respective terms of service, and must have been citizens of the

State for five years next preceding their election or appointment, or at the time this Constitution goes into operation.]

4. *Any citizen entitled to vote, may be elected or appointed to any office; but the Governor and Judges must have attained the age of thirty, and the Attorney General and Senators the age of twenty-five years, at the beginning of their respective terms of service; and must have been citizens of the State for five years next preceding their election or appointment, or citizens at the time this Constitution goes into operation.*

5. Every person elected or appointed to any office, before proceeding to exercise the authority or discharge the duties thereof, shall make oath or affirmation that he will support the Constitution of the United States and the Constitution of this State, and that he will well and faithfully discharge the duties of his said office to the best of his skill and judgment, and no other oath, declaration or test shall be required as a qualification: [*Provided*, That every attorney-at-law shall, in addition to the oaths to support the Constitution of the United States and of this State, make oath or affirmation that he will honestly, to the best of his skill and ability, demean himself in the practice of law; and *provided further*, That personal representatives or other fiduciaries shall not be required to make any oath or affirmation, except that they will well and faithfully discharge the duties of their said trust,] "*unless herein otherwise provided.*"

6. All officers elected or appointed under this Constitution, may be removed from office, for official misconduct, incompetence, neg-

lect of duty, or gross immorality, in such manner as may be prescribed by general laws, "*in cases not otherwise herein provided,* and unless so removed, they shall continue to discharge the duties of their respective offices, until their successors are elected or appointed and qualified.

7. The general elections of State and county officers, and of members of the Legislature shall be held on the second Tuesday of October, "*until otherwise provided by law.*" The terms of such officers and members not elected or appointed to fill a vacancy, shall unless herein otherwise provided, begin on the 1st day of January next succeeding their election. Elections to fill vacancies shall be for the unexpired term. When vacancies occur they shall be filled by appointments, in such manner as may be "*herein*" prescribed "*or*" by "*general*" law, which shall expire on the thirty-first day of December after the next regular election.

8. The Legislature, in cases not provided for in this Constitution, shall prescribe by general laws, the term of office, powers, duties and compensation of all public officers and agents, and the manner in which they shall be elected, appointed and removed.

9. No extra compensation shall be granted or allowed to any public officer, agent or contractor, after the service shall have been rendered or the contract entered into. Nor shall any such officer, agent or contractor, or any of their sureties, be released from any debt or liability due to the State. Nor shall the salary or compensation of any public officer be increased or diminished during his term of office.

10. Any officer of the State may be impeached for maladministration, corruption, incompetency, gross immorality, neglect of duty, or any high crime or misdemeanor. The House of Delegates shall have the sole power of impeachment. The Senate shall have the sole power to try impeachment. "*When sitting as a court of impeachment, the President of the Supreme Court of Appeals, or if from any cause it be improper for him to act, then any other judge of that court, to be designated by it, shall preside.*" [When sitting for that purpose,] "*and*" the Senators shall be on oath or affirmation "*to do justice according to law and evidence,*" and no person shall be convicted without the concurrence of two-thirds of the members elected thereto. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold any office of honor trust or profit, under the State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment and punishment, according to law. The Senate may sit during the recess of the Legislature for the trial of impeachments.

11. Any citizen of the State, who shall, after the adoption of this Constitution, either in or out of the State fight a duel with deadly weapons, or send or accept a challenge so to do; or who shall act as a second, or knowingly aid or assist in such duel, shall ever thereafter be incapable of holding any office of honor, trust or profit in this State.

12. The Legislature shall prescribe the manner of conducting and making returns of elections, and of determining contested elections; and shall pass such laws as may be necessary and proper

to prevent intimidation, disorder or violence at the polls, and corruption or fraud in voting, "*counting the votes, ascertaining or declaring the result, or fraud, in any manner upon the ballot.*"

13. "*No citizen shall ever be denied or refused the right or privilege of voting at an election, because his name is not, or has not been, registered or listed as a qualified voter, the intention being, and is hereby declared to be, that all citizens, who are in fact qualified to vote at an election under the provisions of the first section of this article, shall be permitted to vote, whether registered or listed as a voter or not, and that no citizen, who is qualified to vote under the provisions of said third section, shall be required to take, or make, any oath as a prerequisite or qualification to entitle him to vote.*

# REPORT OF COMMITTEE OF THE WHOLE ON THE "LEGISLATIVE DEPARTMENT."

"The Committee of the whole," to which was referred the report of the Committee on the "Legislative Department," have had the same under consideration, and report the same to the Convention, with such amendments as were agreed to in said Committee of the Whole.

The words in brackets, thus, [ ] were stricken out, and the words in italics inserted.

## ARTICLE IV.

### LEGISLATURE.

1- The Legislative power shall be vested in a Senate and House
2 of Delegates. The style of their acts shall be, "Be it enacted by
3 the Legislature of West Virginia."

2. The Senate shall be composed of twenty-four and the House
2 of Delegates of sixty-five members, subject to be increased accord-
3 ing to the provisions hereinafter contained.

3. The term of office of Senators shall be four years, and that
2 of Delegates two years. The Senators first elected shall divide
3 themselves into two classes, one Senator from every district being
4 assigned to each class; and of these classes the first to be designa-
5 sed by lot, in such manner as the Senate may determine, shall hold
6 their offices for two years, and the second for four years, so that
7 after the first election, one-half of the Senators shall be elected
8 biennially.

4. For the election of Senators, the State shall be divided into

twelve Senatorial districts, which number shall not be diminished but may be increased as hereinafter provided. Every district shall choose two Senators, but both shall not be chosen from the same county. The districts shall be equal as nearly as practicable in population, according to the returns of the United States census. They shall be compact, formed of contiguous territory, and bounded by county llnes. After every such census the Legislature shall alter the Senatorial districts, so far as may be necessary to make them conform to the foregoing provisions.

5. Any Senatorial district may at any time be divided, by county lines or otherwise, into two sections, which shall be equal as nearly as practicable in population. If such division be made, each section shall elect one of the Senators for the district, and the Senator so elected shall be classified in such manner as the Senate may determine.

6. Until the Senatorial districts are altered by the Legislature after the next census, the counties of Hancock; Brooke and Ohio shall constitute the first senatorial district; Marshall, Wetzel and Marion, the second; Ritchte, Doddridge, Harrison, Gilmer and Calhoon, the third; Tyler, Pleasants, Wood and Wirt, the fourth; Jackson, Mason, Putnam and Roane, the fifth; Kanawha, Clay, Nicholas, [and] Braxton, *and Webster*, the sixth; Cabell, Wayne, Lincoln, Boone, Logan, Wyoming, McDowell and Mercer, the seventh; Monroe, Greenbrier, Summers, Pccahontas, [Webster,]

Fayette and Raleigh, the eighth; Lewis, Randolph, Upshur, Barbour, Taylor and Tucker, the ninth; Preston and Monongalia, the tenth; Hampshire, Mineral, Hardy, Grant and Pendleton, the eleventh; Berkeley, Morgan and Jefferson, the twelfth:

7. Alter every census the Delegates shall be apportioned as follows: The ratio of representation for the House of Delegates shall be ascertained by dividing the whole population of the State by the number of which the House is to consist, and rejecting the fraction of a unit, if any, resulting from such division. Dividing the population of every delegate district and of every county not included in a delegate district, by the ratio thus ascertained, there shall be assigned to each a number of Delegates equal to the quotient obtained by this division, excluding the fractional remainder. The additional delegates necessary to make up the number of which the House is to consist shall then be assigned to those delegate districts and counties not included in a delegate district which would otherwise have the largest fractions unrepresented; but every delegate district, and county not included in a delegate district, shall be entitled to at least one delegate.

8. Uutil a new apportionment is declared, the counties of Pleasants and Wood shall form the first Delegate District, and elect three Delegates; Ritchie and Calhoun the second, and [choose] "*elect*" two delegates; Barbour and Taylor the third, and [choose] "*elect*" one Delegate; Kanawha and Clay the fourth, and [choose] "*elect*" three Delegates; Randolph and Tucker the fifth, and [choose] "*elect*" one Delegate; [Pocahontas] "*Nicholas*" and Web-

ster the sixth, and [choose] "*elect*" one Delegate; McDowell and Wyoming the seventh, and shall [choose] "*elect*" one Delegate.

9. Until a new apportionment is declared, the apportionment of delegates to the counties not included in Delegate Districts, except Barbour and Taylor counties, shall be as follows:

To Barbour, Boone, Braxton, Brooke, Cabell, Doddridge, Fayette, Hampshire, Hancock, Jackson, Lewis, Logan, Greenbrier, Monroe, Mercer, Mineral, Morgan, Grant, Hardy, Lincoln, Pendleton, Putnam, Roane, Gilmer, Taylor, Tyler, Upshur, Wayne Wetzle, Wirt, [Nicholas,] "*Pocahontas*," Summers and Raleigh counties, one Delegate each.

To Berkeley, Harrison, Jefferson, Marion, Marshall, Mason, Monongalia and Preston counties, two Delegates each.

To Ohio county, four Delegates.

10. The arrangement of the Senatorial and Delegate Districts and apportionment of Delegates shall hereafter be declared by law as soon as possible after each succeeding census taken by authority of the United States. When so declared they shall apply to the first general election for members of the Legislature to be thereafter held, and shall continue in force unchanged until such districts are altered and delegates are apportioned under the succeeding census.

11. Additional territory may be admitted into, and become part of this State with the consent of the Legislature. And in such case provision shall be made by law, for the representation of the population thereof in the Senate and House of Delegates, in con-

formity with the principles set forth in this Constitution. And the number of members of which each House of the Legislature is to consist shall thereafter be increased by the representation assigned such additional territory.

12. No person shall be a senator who shall not have attained the age of twenty-five years, or a delegate who shall not have attained the age of twenty-one years. No person shall be a senator or delegate who shall not be a citizen of the United States at the time of his election, and who shall not have been for five years a resident of this State, and for one year next preceding his election, a resident within the district or county from which he is elected; and if a senator or delegate remove from the district or county for which he was chosen, his office shall be thereby vacated.

13. No person holding a lucrative office under this State, the United States, or any foreign government, no member of Congress, no person who is a salaried officer of any railroad company, or who is sheriff, constable or recorder of any county, or clerk of any court of record, or who is a [minister of the gospel, or priest of any religious denomination,] "*prosecuting attorney,*" shall be [a member of] "*eligible to a seat in*" the Legislatcre.

14. No person who has been, or hereafter shall be, convicted of bribery, perjury, or other infamous crime, shall be elected to a seat in the Legislature. No person who may have collected or been entrusted with public money, whether State, county, township or municipal, shall be eligible to the Legislature, or to any office of honor trust or profit in this State, until he shall have duly [accounted for and paid over such money according to law.

15. No senator or delegate, during the term for which he shall have been elected, shall be elected or appointed to any civil office of profit under this State, which has been created, or the emoluments of which have been increased during such term, except offices to be filled by election by the people. Nor shall any member of the Legislature be interested, directly or indirectly, in any contract with the State or any county thereof, authorized by any law passed during the term for which he shall have been elected.

16. Members of the Legislature, before they enter upon their official duties, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United Srates, and the Constitution of the State of West Virginia, and will faithfully discharge the duties of Senator (or Delegate) according to the best of my ability; and that I have not accepted [nor will] "*since my election as senator, or delegate, and will uot*" accept or receive, directly or indirectly, any money or other valuable thing, from any corporation, company or person, for any vote or influence I may give or withhold, on any bill, resolution or appropriation, or for any official act." This oath shall be administered by a Judge of the Supreme Court of Appeals or Circuit Court, a Notary Public, or Justice of the Peace, in the hall of the House to which the member is elected, and the Secretary of State shall record and file the oath submitted by each member. Any member who shall refuse to take the oath herein prescribed, shall forfeit his office, and any member who shall be convicted "*by a court of competent jurisdiction,*" of having sworn falsely to, or

violating said oath, shall forfeit his office, and be disqualified thereafter from holding any office of profit or trust in this State.

17. Members of the Legislature shall, in all cases, except treason, felony and breach of the peace, be privileged from arrest during the session, and for ten days before and after the same; and for words spoken in debate, or any report, motion or proposition, made in either House, a member shall not be questioned in any other place.

18. The Legislature shall assemble at the seat of government biennially, and not oftener, unless convened by the Governor. The regular sessions of the Legislature, after the adoption of this Constitution, shall commence on the [third Tuesday of November,] "*Tuesday after the first Monday in January.*"

19. The Governor may convene the Legislature by proclamation whenever, in his opinion, the public safety or welfare shall require it. It shall be his duty to convene it on application, in writing, of three-fifths of the members elected to each House.

20- The seat of government shall be at Charleston until otherwise provided by law.

21. The Governor may convene the Legislature at another place, when in his opinion, they cannot safely assemble at the seat of government, and the Legislature may, when in session, adjourn to some other place, when, in their opinion, the public safety or welfare, or safety to the members, or their health require it.

22. No session of the Legislature, after the first, shall continue longer than forty-five days, without the concurrence of two-thirds of the members elected to each House.

23. Neither House, during the session, shall adjourn for more than three days, without the consent of the other. Nor shall either, without such consent, adjourn to any other place than that in which the Legislature is sitting.

24. A majority of the members elected to each House of the Legislature, shall constitute a quorum. But a smaller number may adjourn from day to day, and shall be authorized to compel the attendance of absent members as each House may provide. Each House shall determine the rules of its proceedings, and be the judge of the election, returns and qualifications of its own members, [and shall choose its own officers, and the Senate shall choose after the commencement of each regular session, from its own members a temporary president to preside when the Lieutenant Governor shall not attend as President, or shall act as Governor. The Secretary of State, or when from any cause he shall fail to attend,] "*The Senate shall choose, from their own body, a President, and the House of Delegates, one of their own namber as Speaker. Each House shall appoint its own officers and remove them at pleasure.*" The oldest delegate [elect] present shall call the House to order, at the opening of each new House of Delegates and preside over it until the Speaker thereof shall have been chosen and shall have taken his seat. [In case the Lieutenant Governor shall, from any cause, fail to attend at the commencement of a regular session of the Senate] The oldest member, [elect] of the Senate present "*at the commencement of each redular session of the Senete,*" shall call the

Senate to order and preside over the same [until the Lieutenant-Governor shall attend, or] until a president [*pro tempore*] of the Senate shall have been chosen and shall have taken his seat, [whichever shall first happen.]

25. Each House may punish its own members for disorderly behavior, and with the concurrence of two-thirds of the members elected thereto, expel a member, but not a second time for the same offence.

26. Each House shall have the power necessary to provide for its own safety, and the undisturbed transaction of its business and may punish, by imprisonment, any person not a member, for disrespectful behaviour in its presence, obstructing any of its proceedings, or any of its offiicers in the discharge of his duties, or for any assault, threatening or abuse of a member for words spoken in debate. But such imprisonment shall not extend beyond the termination of the session, and shall not prevent the punishment of any offence by the ordinary course of law.

27. Laws shall be enacted and enforced, by suitable provisions and penalties, requiring [all] sheriffs, and all other officers, whether "*State*," county, township, district or municipal, who shall collect or receive, or whose official duty it is or shall be, to collect, receive, hold or pay out [taxes, fines, school money, or] any [other] money belonging to, or which is, or shall be for the use of "*the State or*" any county, township, district, or municipal corporation, to make annual account and settlement therefor. Such settlement when made shall be subject to exceptions, and take such direction, and

have only such force and effect as may be provided by law; but in any event, such settlement in all cases shall be recorded, and be open to the examination of the people at such place or places in the county to which it relates, as may be appointed by law.

28. Bills and resolutions may originate in either House, but may be passed, amended or rejected by the other.

29. No bill shall become a law until it has been fully and distinctly read on three different days in each House, "*unless, in case of urgency, by a vote of four-fifths of the members present, taken by ayes and noes, on each bill, this rule be dispensed with.*"

30. No act hereafter passed shall embrace more than one subject, and that shall be expressed in the title. But if any subject shall be embraced in an act which is not so expressed, it shall be void only as to so much thereof as shall not be so expressed, and no law shall be revived or amended by reference to its title only, but the law revived or the section amended, shall be inserted at large, in the new act. And no act of the Legislature shall take effect until the expiration of ninety days after its passage, unless, [in case of emergency (which emergency shall be expressed in the preamble or body of the act,)] the Legislature shall by a vote of two-thirds of the members elected to each House "*taken by ayes and nays*", otherwise direct,

[31. On the passage of every bill or joint resolution the vote shall be taken by yeas and nays. and be entered on the journal, and no bill or joint resolution shall be passed by either House without the affirmative vote of a majority of the members elected to each House.]

31. "*On the passage of every bill or joint or concurrent resolution, the vote shall be taken by yeas and nays, and be entered on the Journal, and no bill or joint or concurrent resolution shall be passed by either House without the affirmative vote of a majority of the members elected thereto.*

*The vote shall be taken by yeas and nays, and be entered on the Journal upon the adoption of amendments proposed by one House of the Legislature to bills passed by the other.*"

32. Whenever the words "a majority of the members elected to either House of the Legislature," or words of like import are used in this Constitution, they shall be construed to mean a majority of the whole number of members to which each House is, at the time, entitled under the apportionment of representation established by the provisions of this Constitution.

33. The members of the Legislature shall receive for their services the sum of four dollars per day during the first session held under this Constitution, and ten cents for each mile traveled in going to and returning from the seat of government by the most direct route, and thereafter not exceeding four dollars per day, together with mileage at the rate aforesaid for each mile traveled by the most direct route. The Speaker of the House of Delegates [shall receive an additional compensation of two dollars per day, and the President, *pro tempore*, of the Senate shall receive a like additional compensation for each day he shall act as presiding officer of the Senate,] "*and the President of the Senate shall each receive an additional compensation of two dollars per day for each day*

*he shall act as presiding officer.*" No other allowance or emoluments, directly or indirectly, than that by this section provided, shall be paid or made to the members of either House for any purpose whatever, except the sum of ten dollars per session to each member, which shall be in full for postage, stationery, newspapers and other incidental expenses and perquisites.

34. The Legislature shall provide by law that the fuel, stationery and printing paper furnished for the use of the State, the copying, printing, binding and distributing the laws and journals, and all other printing ordered by the Legislature, shall be let by contract to the lowest responsible bidder, but the Legislature shall fix a maximum price, and no member *or officer* thereof or [other] officer of the State shall be interested directly or indirectly in such contract, but all such contracts shall be subject to the approval of the Governor, and if he disapprove the same there shall be a re-letting of the contract in such manner as shall be prescribed by law.

35. The State of West Virginia shall never be made defendant in any court of law or equity.

36. The Legislature shall have no power to authorize lotteries or gift enterprises for any purposes, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this State.

37. No law shall be passed which shall operate to extend the term of any public officer after his election or appointment.

[38. Any officer of the State may be impeached for mal-administration, corruption, incompetency, neglect of duty, or any high crime or misdemeanor. The House of Delegates shall have the

sole power of impeachment; but a majority of all the members elected must concur therein. All impeachments shall be tried by the Senate, and when sitting for that purpose the Senators shall be on oath or affirmation to do justice according to law and evidence. When the Governor of the State is tried the President of the Supreme Court of Appeals shall preside. No person shall be convicted without the concurrence of two-thirds of the Senators elected; but judgment in such case shall not extend further than removal from office and disqualification to hold any office of honor, profit or trust under the government of the State. The party, whether convicted or acquitted, shall nevertheless be liable to prosecution, trial, judgment and punishment according to law. The Senate may sit during the recess of the Legislature for the trial of impeachments.

39. The Legislature shall never grant or authorize extra compensation, fee or allowance to any public officer, agent, servant or contractor, after service has been rendered, or a contract made, nor authorize the payment of any claim, or part thereof, hereafter created against the State, under any agreement or contract made, without express authority by law, and all such unauthorized agreements or contracts shall be null and void. Nor shall the salary of any public officer be increased or diminished during his term of office: *Provided*, the Legislature may make appropriations for expenditures hereafter incurred in suppressing insurrection or repelling invasion.

[40. The Legislature shall pass general laws whereby any num-

ber of persons associated for mining, manufacturing, insuring or other purposes useful to the public, excepting banks of circulation and the construction of works of internal improvement, may become a corporation on complying with the terms and conditions thereby prescribed, and no special act incorporating or granting peculiar privileges to any joint stock company or association, not having in view the issuing of bills to circulate as money, or the construction of some work of internal improvement, shall be passed. No company or association, authorized by this section, shall issue bills to circulate as money. No charter of incorporation shall be granted under such general laws, unless the right be reserved to alter or amend such charter at the pleasure of the Legislature, to be declared by general law. All acts passed for the incorporation or banks of internal improvement companies, shall be subject to alteration or amendment by the Legislature; and no act to incorporate any bank of circulation or internal improvement company, or to confer additional privilege on the same, shall be passed unless public notice of the intended application for such act be given under such regulations as may be prescribed by law. No special act of incorporation shall be passed by the Legislature in any of the cases or for any of the purposes for which general laws for becoming incorporated are directed by this section.]

41. The Legislature shall not pass local or special laws in any of the following enumerated cases; that is to say, for

Granting divorces;

Laying out, opening, altering and working roads or highways;

Vacating roads, town plats, streets, alleys and public grounds;

Locating or changing county seats;

Regulating or changing county and township affairs;

Providing for the sale of church property, or property held for charitable uses;

Regulating the practice in courts of justice;

Incorporating cities, towns or villages, *or amending the charter of ang city, town or village.*

Summoning or impaneling grand or petit juries;

The opening or conducting of any election, or designating the place of voting;

The sale or mortgage of real estate belonging to minors, or others under disability;

Chartering, licensing or establishing ferries or toll bridges;

Remitting fines, penalties or forfeiture;

Changing the law of descent;

"*Regulating the rate of interest.*"

But the Legislature may, so far as practicable, and as may be deemed proper and useful, enact laws of a general nature providing for such cases.

"*The Legislature shall provide by general laws for all cases where legislation is proper, and no special law shall be enacted where a general law can be made applicable.*"

[42. The credit of the State shall not be granted to, or in aid of any county, city, town or township, corporation or person, nor shall the State ever pay, assume er become responsible or liable for the

debts or liabilities of any city, town, township, corporation or person.]

[43. The Legislature shall have no power to release or extinguish, in whole or in part, the indebtedness, liability or obligation of any corporation or individual, to this State, or to any municipal corporation.]

44. Each House shall keep a Journal of its proceedings, and cause the same to be published from time to time "*and all bills and jotnt resolutions shall be described therein, as well by their title as their number,*" and the yeas and nays on the question, if called for by one-tenth of those present, shall be entered on the journal.

45. Bills making appropriations for the pay of members and officers of the Legislature, and for salaries for the officers of the Government shall contain no provision on any other subject.

"46. *The Legislature shall never authorize or establish any board or court of Registration of voters.*"

"47. *Neither House of the Legislature, nor any county or municipal authorities, nor any other public representative body, shall vote by ballot or in any other secret manner.*"

JAMES M. JACKSON,

Feb. 24th, 1872. *Chairman.*

# REPORT OF THE "COMMITTEE OF THE WHOLE" ON THE REPORT OF THE COMMITTEE ON THE EXECUTIVE DEPARTMENT.

**The words included in brackets, thus [ ] were struck out of the original text, in Committee of th Whole, and the words in italics inserted.**

## ARTICLE ——

### EXECUTIVE DEPARTMENT.

1. The executive department shall consist of a Governor, ]Lieu-
2 tenant Governor,] Secretary of State, [who shall perform the duties
3 of,] State Superintendent of Free Schools, Auditor, Treasurer, and
4 Attorney General, who shall [each hold his office for the term of
5 four years from the second Monday of January next after his elec-
6 tion, and until his successor is elected and qualified,] *be ex-officio*
7 *reporter of the Court of Appeals, and whose terms of office shall be*
8 *four years.* They shall, except the [Lieutenant Governor and]
9 Attorney Gensral, reside at the seat of government during their
10 term of office. and keep *there* the public records, books and papers
11 [there] "*pertaining to their respective offices,*" and shall perform
12 such duties as may be prescribed by law.

### ELECTION.

2. An election for Governor, *State Superintendent of Free Schools*
2 [Lieutenant Governor, Secretary of State,] Auditor, Treasurer and
3 Attorney General shall be held at such times and places as may
4 be prescribed in this constitution or by general law, [and every
5 four years thereafter.]

3 The returns of every election for the above named officers

shall be sealed up and transmitted by the returning officers to the Secretary of State, directed to "The Speaker of the House of Delegates," who shall immediately after the organization of the House, and before proceeding to business, open and publish the same in the presence of a majority of each House of the Legislature, who shall for that purpose assemble in the hall of the House Delegates. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more have an equal and the highest number of votes *for the same office*, the Legislature shall, by joint [ballot] *vote* choose one of *such* persons for said office. Contested elections for [all of said offices] *the office of Governor* shall be determined by both Houses of the Legislature by joint [ballot] *vote*, in such manner as may be prescribed by law.

"1. *The Secretary of State shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall continue in office unless sooner removed, until the expiration of the official term of the Governor by whom he was appointed.*"

ELIGIBILITY.

4. [No person shall be eligible to the office of Governor or Lieutenant Governor who shall not have attained the age of thirty years, and been for five years next preceding his election a citizen of the United States and of this State.] Neither the Governor, [Lieutenant Governor, Secretary of State,] *State Superintendent of Free Schools*, Auditor, Treasurer nor Attorney General, shall [b

eligible to] *hold* any other office during [the period for which he shall have been elected,] *his term of service.* The Governor [and Lieutenant Governor] shall be ineligible to said office [respectively] for four years next succeeding the term for which [they were] *he was* elected.

GOVERNOR.

5. The chief executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed.

6. The Governor shall, at the commencement of each session, and ~~at the close of his term of office,~~ give to the Legislature information by message, of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall account to the Legislature, and accompany his message with a statement of all money received and paid out by him from any funds subject to his order, with vouchers, and at the commencement of each regular session, present estimates of the amount of money required to be raised by taxation for all purposes.

[7. The Governor may, on extraordinary occasions, convene the Legislature, by proclamation, stating therein the purpose for which they are convened, and the Legislature shall enter upon no business except that for which they were called together.]

7. *During any extraordinary session of the Legislature, convened by proclamation of the Governor, at his own instance, no business shall be transacted except that for which they were called together.*

[8. In case of a disagreement between the two Houses with respect to the time of adjournment, the Governor may, on the same

being certified to him by the House first moving the adjournment, adjourn the Legislature to such time as he thinks proper, not beyond the first day of the next regular session.]

9. The Governor shall nominate, and by and with the advice and consent of the Senate (a majority of all the senators elected concurring by yeas and nays,) appoint all officers whose offices are established by this Constitution, or which may be created by law, and whose appointment or election is not otherwise provided for, and no such officers shall be appointed or elected by the Legislature.

10. In case of a vacancy, during the recess of the Senate, in any office which is not elective, the Governor shall make a temporary appointment until the next meeting of the Senate, when he shall nominate some person to fill such office, and any person so nominated, who is confirmed by the Senate, (a majority of all the Senators elected concurring by yeas and nays,) shall hold his office during the remainder of the term, and until his successor shall be appointed and qualified. No person, after being rejected by the Senate, shall be again nominated for the same office at the same session, unless at the request of the Senate, or be appointed to the same office during the recess of the Legislature.

11. The Governor shall have power to remove any officer whom he may appoint, in case of incompetency, neglect of duty, or malfeasance in office; and he may declare his office vacant, and fill the same as herein provided in other cases of vacancy.

12. The Governor shall have power to remit fines and penalties in such cases, and under such regulations as may be prescribed by law, to commute capital punishment, and except when the prosecution has been carried on by the House of Delegates, to grant reprieves and pardons after conviction; but he shall communicate to the Legislature, at each session, the particulars of every case of fine or penalty remitted, of punishment commuted and of reprieve or pardon granted, with his reasons for remitting, commuting or granting the same.

13. The Governor shall be commander-in-chief of the military forces of the State (except when they shall be called into the service of the United States), and may call out the same to execute the laws, suppress insurrection and repel invasion.

[14. The Governor and all civil officers of this State shall be liable to impeachment for any misdemeanor in office.]

15. When any State officer has executed bond as required by law, [the Governor shall, whenever the public interest demands it, require of such officer reasonable additional security, and if it is not given his office shall be deemed vacant.] *"the Governor shall, for such causes, and in such manner as may be prescribed by law, require of such officer reasonable additional security; and if the security is not given, in such time as may be prescribed by law, his office shall become, and be declared vacant, in such manner as may be provided by law."*

VETO.

16. Every bill passed by the Legislature shall before it becomes

a law, be presented to the Governor. If he approves, he shall sign it, and thereupon it shall become a law; but if he do not approve he shall return it, with his objections, to the House in which it shall have originated, which House shall enter the objections at large upon its journal, and may proceed to reconsider the bill. If then, a majority of the members elected to that House agree to pass the same, it shall be sent together with the objection to the other House, by which it shall likewise be reconsidered, and if approved by a majority of the members elected to that House, it shall become a law, notwithstanding the objections of the Governor. But in all such cases the vote of each House shall be determined by yeas and nays, to be entered on the journal. Any bill which shall not be returned by the Governor within five days (Sundays excepted,) after it shall have been presented to him, shall become a law in like manner as if he had signed it, unless the Legislature shall, by their adjournment, prevent its return, in which case it shall be filed with his objections in the office of the Secretary of State, within five days after such adjournment, or become a law.

17. Every bill passed by the Legislature, making appropriations of money [for distinct purposes,] "*embracing distinct items,*" shall, before it becomes a law, be presented to the Governor; [if he approves it, or any of the items therein contained, it or the items so approved shall become a law; but if he do not approve it, or if he disapproves any of the items therein, he shall return it, with his

objections thereto, to the House in which it shall have originated and before it, or the items, or item, so disapproved shall become a law, it shall be repassed by a majority of all the members elected to both Houses, according to the rules and limitations prescribed in the preceding sections in reference to other bills.] "*If he disapprove the bill, or any item or appropriation therein contained, he shall communicate such disapproval, with his reasons therefor, to the House in which the bill originated; but all items not disapproved shall have the force and effect of law, according to the original provisions of the bill. Any item, or items, so disapproved shall be void, unless re-passed by a majority of each House, accordlng to the rules and limitations prescribed in the preceeding sections in reference to other bills.*"

## LIEUTENANT GOVERNOR.

[18. In case of the death, conviction on impeachment, failure to qualify, resignation or other disability of the Governor, the powers, duties and emoluments of the office, for the residue of the term or until the disability shall be removed, shall devolve upon the Lieutenant Governor.]

[19. The Lieutenant Governor shall be President of the Senate and shall vote only when the Senate is equally divided. The Senate shall choose from their own body a President *pro tempore*, to preside in case of the absence or impeachment of the Lieutenant Governor, or when he shall hold the office of Governor.]

[20. If there be no Lieutenant-Governor, or if the Lieutenant-Governor, for any of the causes specified in section eighteen of

this article, becomes incapable of performing the duties of the office,] "*In case of the death, conviction, or impeachment, failure to qualify, resignation or other disability of the Governor,*" the President of the Senate shall sit as Governor until the vacancy is filled or the disability removed; and if the President of the Senate, for any of the above named causes, shall become incapable of performing the duties of Governor, the same shall devolve upon the Speaker of the House of Delegates; and in all other cases where there is no one to act as Governor, one shall be chosen by joint ballot of the Legislature.

"*Whenever a vacancy shall occur in the office of Governor before the first three years of the term shall have expired, a new election for Governor shall take place to fill the vacancy.*

OTHER STATE OFFICERS.

21. If the office of Auditor, Treasurer, [Secretary of State,] "*State Superintendent of Free Schools,*" or Attorney General shall be vacated by death, resignation or otherwise, it shall be the duty of the Governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be provided by law.

An account shall be kept by the officers of the Executive Department, "*except the Governor,*" and of all the public institutions of the State, of all moneys received or disbursed by them severally from all sources, and for every service performed, and a semi-annual report thereof be made to the Governor, under oath "*or affirmation,*" and any officer who "*shall wilfully*" make a false report, shall be guilty of perjury [and punished accordingly.]

22. The officers of the Executive Department, and of all the public institutions of the State, shall, at least ten days preceding each regular session of the Legislature, severally report to the Governor, who shall transmit such reports to the Legislature, and the Governor may at any time require information in writing, under oath, from the officers of the Executive Department, and all officers and managers of State institutions, upon any subject relating to the condition, management and expenses of their respective offices.

THE SEAL OF STATE.

23. The present seal of the State with its motto, "Montani Semper Liberi," shall be the great seal of the State of West Virginia, which shall be kept by the Secretary of the State, and used by him officially as directed by law.

SALARIES OF OFFICERS.

24. The Governor shall receive for his services a salary of [two thousand] "*twenty-seven hundred*" dollars per annum, [together with an additional compensation of one thousand dollars per year in lieu of house rent, until the Legislature provide and furnish an Executive mansion. The Lieutenant-Governor, while acting as president of the senate, shall receive for his services the same compensation as the Speaker of the House of Delegates;] "*and no additional emolument, allowance, or perquisits shall be paid or made on any account;*" and any person acting as Governor shall receive the emoluments of that office.

The Secretary of State shall receive [thirteen hundred,] "*one thousand*, the "*State Superintendent of Free Schools, fifteen hundred,*"

the Treasurer fourteen hundred, the Auditor fifteen hundred, and the Attorney General, [one thousand] "*thirteen handred*" dollars per annum.

DEFINITION AND OATH OF OFFICE.

[25. An office is a public position created by the Constitution or law, continuing during the pleasure of the appointing power or for a fixed time, with a successor elected or appointed.

An employment is an agency for a temporary purpose, which ceases when that purpose is accomplished.]

[26. All civil officers, except members of the Legislature and such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be,) that I will support the Constitution of the United States, and the Constitution of the State of West Virginia; and that I will faithfully discharge the duties of the office of .....according to the best of my ability."

And no other oath, declaration or test shall be required as a qualification.]

[OKEY JOHNSON, *Chairman.*]

WM. G. BROWN,

*Chairman Committee of the Whole.*

# REPORT OF THE COMMITTEE OF THE WHOLE.

## JUDICIAL ORGANIZATION.

The Committee of the Whole to whom was referred the report of the Committee on the Judicial Organization of the State, have had the same under consideration, and report the same back to the Convention, with such amendments as were agreed to in said Committee of the Whole.

The words included in bracketts, thus, [] were stricken out in Committee of the Whole, and the words in *italics* inserted.

1. The judicial power shall be vested in a supreme court of ap-
2 peals and in circuit courts, and the judges thereof; in the county
3 and corporation courts, and in the justices of the peace.

### SUPREME COURT OF APPEALS.

2. The supreme court of appeals shall consist of four judges,
2 any three of whom shall be a quorum. They shall be elected by
3 the voters of the State, and shall hold their office for the term of
4 twelve years, unless sooner removed in the manner prescribed by
5 this constitution.

3. It shall have original jurisdiction in cases of *habeas corpus,*
3 *mandamus,* and *prohibition.* It shall have appellate jurisdiction in
3 civil cases where the matter in controversy, exclusive of costs, is
4 of greater value or amount than one hundred dollars; in contro-

versies concerning the title or boundaries of land, the probate of wills, the appointment or qualification of a personal representative, guardian, committee or curator; or concerning a mill, road, way, ferry or landing; or the right of a corporation or county to levy tolls or taxes; and, also, in cases of *habeas corpus*, *mandamus* and *prohibition*, and in cases involving freedom, or the constitutionality of a law. It shall have appellate jurisdiction in criminal cases where there has been a conviction for felony or misdemeanor in a circuit court, and where a conviction has been had in any inferior court and been affirmed in a circuit court.

4. No decision rendered by the supreme court of appeals shall be considered as binding authority upon any of the inferior courts of this State, except in the particular case decided, unless such decision is concurred in by at least three judges of said court.

5. When a judgment or decree is reversed or affirmed by the supreme court of appeals, every point fairly arising upon the record of the case, shall be considered and decided, and the reasons therefor shall be concisely stated in writing, and preserved with the record of the case; and it shall be the duty of the court to prepare a syllabus of the points adjudicated in each case to be prefixed to the published report thereof.

6. A writ of error, supersedeas or appeal shall only be allowed by the supreme court of appeals, or a judge thereof, upon a petition assigning error in the judgment or proceedings of the inferior court, and then only after the said court or a judge threof shall have examined and considered the record and assignment of errors

and is satisfied that there is error in the same, or that it presents a point proper for the consideration of the court.

7. If a vacancy shall occur in said court from any cause, the Governor shall issue a writ of election to fill such vacancy for the residue of the term; *Provided*, That if the unexpired term be less than two years, the Governor shall appoint a judge to fill such vacancy.

8. The officers of the Supreme Court of Appeals, *except the reporter*, shall be appointed by the court, or by the judges thereof in vacation, with the power of removal; their duties and compensation shall be prescribed by law.

9. There shall be *at least* two terms of the Court of Appeals held annually, at such times and places as may be prescribed by law.

## CIRCUIT COURTS.

10. The State shall be divided into [eight] *nine* circuits; for each circuit a judge shall be elected by the voters thereof, who shall hold his office for the term of eight years, unless sooner removed in the manner prescribed by this Constitution. During his continuance in office he shall reside in the circuit of which he is judge.

11. A circuit court shall be held in every county twice a year. But provision may be made by law for special terms; and a judge of any circuit may hold the court in another circuit.

12. The circuit court shall have the supervision of all proceedings before the county courts and other inferior tribunals by *mandamus*, *prohibition* or *certiorari*. They shall, except in cases con

fided by this Constitution to some other tribunal, have original and general jurisdiction of all matters at law where the amount in controversy, exclusive of interest, exceeds fifty dollars; and of all cases in equity, and of all felonies and misdemeanors. They shall have appellate jurisdiction upon petition and assignment of error in all cases of judgments, decrees, and final orders rendered by the county court, where the matter in controversy, exclusive of costs, is of greater value or amount than twenty dollars; in controversies respecting the title or boundaries of land, the probate of wills, the appointment or qualification of a personal representative, guardian, committee or curator; or concerning a mill, road, way, ferry or landing, or the right of a corporation or county to levy tolls or taxes; and also in cases of *habeas corpus*, *mandamus*, *prohibition* and *certiorari*, and cases involving freedom, or the constitutionality of a law; and in all cases of conviction under criminal prosecutions in said court.

"*It shall have such other original jurisdiction as may be prescribed by law.*"

[13. Where the grand jury of any circuit court shall find an indictment for a misdemeanor or petit larceny, the court shall certify the said indictment to the county court for further proceedings to be had thereon, except in case of indictment for perjury or subornation of perjury.]

13. "*Authority is granted the Legislature to authorize, by general law, any indictment for a misdemeanor or petit larceny, found by the grand jury of any circuit court, to be certified by said court, to the*

*county court of the county in which the indictment was, or shall be found, for further proceedings to be had thereon, in such manner and under such regulations as may be prescribed by law.*"

14. The State shall be arranged into the following circuits: The counties of Hancock, Brooke, Ohio and Marshall, shall constitute the first circuit; the counties of Wetzel, Marion, Monongalia, Taylor, Doddridge and Harrison, the second; the counties of Jefferson, Berkeley *and* Morgan, *the third; the counties of* Hampshire, Mineral, Grant, Hardy and Pendleton, the [third] *fourth;* the counties of Tyler, Pleasants, Ritchie, Wood, Wirt and Calhoun, the [fourth] *fifth;* the counties of Randolph, Tucker, Barbour, Lewis, Webster, Gilmer, Preston and Upshur, the [fifth] *sixth;* the counties of Jackson, Roane, Putnam, Kanawha and Mason, the [sixth] *seventh;* the counties of Greenbrier, Monroe, Fayette, Summers, Clay, Nicholas, Pocahontas and Braxton, the [seventh] *eighth*, and the counties of Cabell, Wayne, Lincoln, Boone, Logan, Wyoming, Mercer, Raleigh and McDowell, the [eighth] *ninth*.

15. The Legislature may, after the expiration of five years from the time this constitution goes into operation, re-arrange the circuits, but the number of circuits shall not then be increased; and no re-arrangement of the circuits shall have the effect of removing a judge from office. After the census of 1880, it may increase the number of circuits so as not to exceed one circuit for every fifty-five thousand inhabitants of the State.

16. The Legislature shall provide by law for holding circuit

courts where, from any cause, the judge shall fail to attend, or if in attendance cannot properly preside.

GENERAL PROVISIONS.

17. All judges shall be commissioned by the Governor. The salary of the judges of the court of appeals shall be twenty-five hundred dollars per annum, and that of the judges of the circuit court shall be two thousand dollars; and each shall receive the same allowance for necessary travel, as members of the Legislature. No judge during his term of office shall practice the profession of law, or hold any other office, appointment or public trust under this or any other government, and the acceptance thereof shall vacate his judicial office; nor shall he, during his continuance therein, be eligible to any political office.

18. Judges may be removed from office by a concurrent vote of both Houses of the Legislature, where from age, disease, or mental or bodily infirmity they are incapable of discharging the duties of their offices. But two-thirds of the members elected to each House, must concur in such vote; and the cause of removal shall be entered upon the journals of each. The judge against whom the Legislature may be about to proceed shall receive notice thereof, accompanied with the cause alleged for his removal, at least twenty days before the day on which either House of the Legislature shall act thereupon.

[19. The judges of the supreme court of appeals, of the circuit courts, and all other officers of this State, may be impeached for

mal-admitstration, corruptton, incompetency, neglect of duty, or any high crime or misdemeanor. The House of Delegates shall have the sole power of impeachment; the Senate shall have the sole power to try impeachment. When sitting as a court of impeachment, the president of the supreme court of appeals, or if from any cause it be improper for him to act, then any other judge of that court, to be designated by it, shall preside. And the Senators shall be on oath or affiirmation; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than the removal from office, and the disqualification to hold any office of honor, trust or profit under the State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial judgment and punishment, according to law. The Senate may sit during the recess of the Legislature for the trial of impeachments.]

20. The voters of each county shall elect a clerk of the circuit court, whose term of office shall be six years; his duties and compensation and the mode of removing him from office shall be prescribed by law: and when a vacancy shall occur in the office, the judge of the circuit court shall appoint a clerk, who shall discharge the duties of the office until the vacany is filled. In any case in respect to which the clerk shall be so situated as to make it improper for him to act, the court shall appoint a substitute.

21. The clerks of the circuit courts and the clerk of the supreme court of appeals, shall, under such regulatious as may be prescribed by law, make an annual report to the auditor, exhibiting the number of suits commenced, pending and decided in their respec-

tive courts, and the number of days the courts were in session durind the year, which shall be condensed by said officer, and made a part of his annual report to the Legislature.

[22. At every regular election of a governor, an attorney general shall be elected, He shall be commissioned by the governor, and shall perform such duties, and receive such compensation as may be prescribed by law.]

23. Whereever the Legislature is expressly prohibited by this constitution from doing any particular act, and the same shall be done in violation of such prohibition, it shall be the duty of the courts, upon a proper case presented before them, to declare such act null and void.

24. The Legislature may establish courts of limited jurisdiction within any incorporated town or city, subject to *such appeal as now is or may be prescribed by law*, [appeal to the circuit courts, as prescribed in appeals from the county court.]

[25. Writs shall run in the name of the State of West Virginia. Indictments shall conclude "against the peace and dignity of the State."]

26. The Legislature shall not, [by any act, take from the people their right to elect their own officers as the same [is prescribed in this constitution; nor shall it] confer upon any court or judge the power of appointment to office, further than the same is herein provided for.

COUNTY COURTS.

27, There shall be in each county of the State a county court

which shall be composed of the president and two justices of the peace, except when by this constitution the presence of a greater number is required. It shall hold six sessions during the year, to be prescribed by law; two of which shall be limited to matters connected with the police and fiscal affairs of the county; the other four shall be held for the trial of causes, and for the transaction of all other business within the general jurisdiction of the court, except an assessment or levy upon the property of the county. In all cases where a levy of the county is laid, [all the justices of the county shall be previously summoned; but a majority, if present, shall constitute a quorum,] *a majority of the justices elected in the county shall constitute a quorum for the transaction of business*

28. The president of the court shall be elected by the voters of the county, and shall hold his office for the term of four years. It shall be his duty to attend each term of the said court, and shall receive for such service four dollars for every day he presides in court, to be paid from the county treasury. He shall also perform such other duties, and receive such compensation therefor, as may be prescribed by law. When from any cause he is unable to attend as presiding judge, another justice may be added to make the court, who, in conjunction with the other two, may designate one of their own number to preside in his absence.

29. Each county shall be laid off into districts, not less in number than three, nor more than ten, as nearly equal as may be in territory and population. In each district there shall be elected

by the voters thereof, two justices of the peace, who shall be commissioned by the Governor, reside in their respective districts, and hold their office for the term of four years; and until changed, the present sub-divisions of the counties shall constitute such districts.

30. The justices of the peace shall be classified by law for the performance of their duties in court; they shall receive a compensation of three dollars per day for their service in court, to be paid out of the county treasury, and [shall not receive any fee or emolument for other judicial service; but] they may receive fees for other official duties, to be ascertained by law, and paid by the parties for whom the service shall be rendered.

31. The county court shall have original jurisdiction in all actions at law, where the amount in controversy exceeds twenty dollars, subject to such limitations as to special subjects of controversy, as may be prescribed by law; and in all suits in equity. It shall have jurisdiction in all matters of probate; the appointment and qualification of personal representatives, guardians, committees and curators, and the settlement of their accounts; and in all matters relating to apprentices; and of all criminal cases under the grade of felony, except as is hereinbefore provided. They shall have the custody, through their clerks, of all wills, deeds, and other papers presented for probate or record in said county, which shall be disposed of, or preserved, as required by law.

32. It shall also have the superintendence and administration of the internal police and fiscal affairs of the county, including the

establishment and regulation of roads, ways, bridges, public landings, ferries and mills, with authority to lay and disburse the county levies. It shall judge of the election, qualification and returns of its own members, and of all county and district officers; and it shall exercise such other jurisdiction, and perform such other duties, as may be prescribed by law.

33. The county court shall have jurisdiction of all appeals from the judgment of the justices, the decision of which court shall be final in all cases, except such as involve "*the title, right of possession or boundaries of land*," the freedom of a person, the validity of a law, or of an ordinance of any corporation, or the right of a corporation to levy tolls or taxes.

34. The voters of each county shall elect a clerk of the county court, whose term of office shall be six years, [and whose duties, compensation and mode of removal shall be prescribed by law.] *He shall, when the county court is not sitting, have authority under such regulations as may be prescribed by law, to receive proof of wills and admit them to probate; to appoint and qualify personal representatives, guardians, committees and curators, subject to an appeal; and he shall perform such other duties, receive such compensation, and may be removed in such manner as shall be prescribed by law.*

[35. The clerk of the county court shall be *ex-officio* auditor of the county, and as such shall perform such duties as may be required of him by law.]

36. A vacancy in the office of presiding judge shall be filled until the next regular election, by the justices, all of whom shall

be summoned for that purpose. Vacancies in the office of justice of the peace may be filled, until the next regular election, by the county court, at one of its regular terms.

[37. The power and jurisdiction of justices of the peace within their respective counties, shall be prescribed by law.]

37. *The civil jurisdiction of a justice of the peace shall extend to actions of assumpsit, debt, detinue and trover, if the amount claimed exclusive of interest, does not exceed one hundred dollars; but where the amount thus claimed shall exceed twenty dollars, on the application of the defendant, either in person or by counsel, made at any time before trial or judgment, it shall be the duty of the justice of the peace to transmit the papers in the case to the clerk of the county court, to be docketed in said court and therein prosecuted, as may be prescribed by law. The jurisdiction of justices of the peace shall extend throughout their county; they shall be conservators of the peace, and have such jurisdiction and power in criminal cases as may be prescribed by law, not repugnant to this constitution.*

38. The Legislature shall [have the power,] upon the application of any [county, to] "*one or more counties, the majority of the voters of each county assenting thereto*" re-form, alter or abolish the county court established by this constitution *in such county or counties* and in lieu thereof, with the assent of a majority of the voters of *each of* said county, *or counties*, [to] create another court, or other tribunals *therein*, as well for judicial, as for police and fiscal purposes, "*conformed to the wishes of the county, or counties, making the appli-*

*cation,*" but with the same powers and jurisdiction herein conferred upon the county court, and with compensation to be made from the county treasury: *Provided,* That the courts so created shall in their provisions be made to conform to the policy of the State as prescribed in this Constitution.

JNO. BLAIR HOGE.

*Chairmna.*

# REPORT OF COMMITTEE OF THE WHOLE.

## COUNTY ORGANIZATION.

The Committee of the Whole to whom was referred the report of the Committee on County Organization, have had the same under consideration, and have directed me to report the same to the Convention, with the following amendments, viz:

**The words included in brackets, thus, [ ] were stricken out of the original text in Committee of the Whole, and the words in italic, inserted.**

11. The voters of each county shall elect [a clerk of the circuit court, a clerk of the court of justices,] a surveyor of lands, a prosecuting attorney, a sheriff and an assessor, who shall hold their respective offices for the [following terms: The clerk of the circuit court, the clerk of the court of justices, the surveyor of lands and the assessor, for the term of six years, and the prosecuting attorney and the sheriff for the] term of four years.

12. There shall also be elected in each district of the county, by the voters thereof, one constable, "*and if the population of any district shall exceed fifteen hundred an additional constable,*" whose term of office shall be four years, and whose powers as such shall extend throughout their county. The assessor shall, with the advice and consent of the court of justices, have the power to ap-

point one or more assistants. Coroners, overseers of the poor, and surveyors of roads shall be appointed by the court of justices. The foregoing officers, except the prosecuting attorneys, shall reside in the county and district for which they shall be respectively elected.

[13. No person elected to the office of sheriff, shall be re-eligible to the same office for the next succeeding term. Nor shall he during his term of service, or within one year thereafter be eligible to any political office.

But the retiring sheriff shall finish all business remaining in his hands at the expiration of his term, for which purpose his commission and official bond shall continue in force.]

13. "*The same person shall not be elected sheriff for two consecutive terms; nor shall any person who acted as his deputy, be elected successor to such sheriff; nor shall any sheriff act as deputy of his successor; but the retiring sheriff shall finish all business remaining in his hands at the expiration of his term; for which purpose his commission and official bond shall remain in force.*

*The duties of the office of sheriff shall be performed by him in person, or under his superintendence; nor shall he, during his term of serviee, or within one year thereafter, be eligible to any other office.*

14. The presiding justices, the justices *of the peace,* sheriffs, [attorneys for the State,] *prosecuting attorneys,* clerks of the circuit and county courts, and all other county officers, shall be subject to indictment for malfeasance, misfeasance, or *y*] *wilful* neglect of

official duty, and upon conviction thereof, their offices shall become vacant.

15. The Legislature shall provide for commissioning such of the officers herein mentioned, as they may deem proper, not provided for in this constitution, and may require any class of them to give bond with security for the faithful discharge of the duties of their respective offices.

They shall further provide for the compensation, the duties and responsibilities *of such officers*, and [for the appointment of deputies and assistants, of such officers,] *may provide for the appointment of their deputies and assistants*, by general laws.

16. The [presiding justice,] *president of the county court* and every justice and constable, shall be a conservator of the peace throughout his county.

17. No new county shall hereafter be formed in this State, with an area of less than four hundred square miles; nor with a population of less than [four] *six* thousand, nor shall any county from which [part of any new county] *a new county or part thereof* shall be taken, be reduced in area below four hundred square miles, nor in population below, [four] *six* thousand. Nor shall any new county be formed without the consent of a majority of the voters of the county or counties, out of which such new county is to be formed.

[18. All the counties in this State shall remain as they now are, until they shall be changed according to this constitution.]

[19. The clerk of the justices' court shall be ex-officio auditor of public accounts, for his county, whose duty it shall be under the

supervision of the court of justices, annually in the month of ——, to settle with the sheriff of the county and all other officers to whom public moneys are entrusted, which settlement shall be entered in a well-bound book; which shall be accessible to the inspection of the public.]

B. W. BYRNE,
*Chairman.*

## REPORT OF THE COMMITTEE ON MISCELLANEOUS PROVISIONS.

The committee to whom was referred that part of the Constitution relating to miscellaneous provisions, have, according to order, had the same under consideration, and submit the following report:

### ARTICLE ——.

1. The circuit courts shall have power, under such general regulations as may be prescribed by law, to grant divorces, change the names of persons, and direct the sale of estates belonging to infants and other persons under legal disabilities; but relief shall not be granted by special legislation in such cases.

2. Laws may be passed regulating or prohibiting the sale of intoxicating liquors within the limits of this State.

3. For the election of representatives to Congress the State shall be divided into districts corresponding in number with the representatives to which it may be entitled; which districts shall be formed of contiguous counties, and be compact. Each district shall contain, as nearly as may be, an equal federal number, to be determined according to the rule prescribed in the second section of the first article of the Constitution of the United States: *Provided*, That the congressional districts shall remain as they now are until changed by law.

4. Such parts of the common law, and the laws of this State, as

are in force when this Constitution goes into operation, and are not repugnant thereto, shall be, and continue the law of the State until altered or repealed by the Legislature. All civil and criminal suits and proceedings pending in the former circuit courts of this State shall remain and be proceeded in before the circuit court of the proper county. All offenses against the laws of Virginia heretofore committed within the boundaries of this State, shall be cognizable in the courts of this State in the same manner as they would be if hereafter committed within the same.

5. The records, books, papers, seals and other property and appurtenances of the former circuit courts shall remain in the care and custody of the circuit courts of the respective counties, to which all process outstanding at the time this Constitution goes into operation shall be returned, and by which new process in suits then pending, or previously determined, in the said former circuit courts, may be issued in proper cases. Copies and transcripts of the records and proceedings of the said former courts shall be made and certified by the court having the care and custody thereof, or the proper officer thereof, and shall have the same force and effect as if they had been heretofore properly made and certified by the former circuit courts.

6. The records, books, papers, seals and other property and appurtenances of the Recorder's office, and of the boards of supervisors of the several counties shall be transferred to, and remain in the care and custody of the county courts of the respective counties created by this Constitution; and all proceedings pending

before the boards of supervisors shall be docketed, and proceeded in before said county courts in such manner as may be prescribed by law.

7. No charter of incorporation shall be granted to any church or religious denomination. Provision may be made by general laws for securing the title to church property, and for the sale and transfer thereof, so that it shall be held, used, or transferred for the purposes of such church or religious denomination.

8. Any husband or parent, or the infant children of deceased parents, may hold a homestead of the value of five hundred dollars, and personal property of the value of two hundred dollars, exempt from forced sale, subject to such regulations as shall be provided by law: *Provided*, That such homestead and exemption shall in nowise affect debts and liabilities existing at the time of the adoption of this Constitution.

## ARTICLE ——.

1. No Convention shall be called, having the authority to alter the Constituton of the State, unless it be in pursuance of a law passed by the affirmative vote of a majority of the members elected to each branch of the Legislature, and providing that polls be opened throughout the State, on the same day therein specified, which shall not be less than three months after the passage of such law, for the purpose of taking the sense of the voters on the question of calling a Convention. And such Convention shall not be held unless a majority of the votes cast at such polls be in favor of calling the same; nor shall the members be elected to such Convention, until, at least, one month after the result of the vote shall be duly ascertained, declared and published. And all acts and ordinances of the said Convention, shall be submitted to the voters of the State, for ratification or rejection, and shall have no validity whatever until they are ratified.

2. Any amendment to the Constitution of the State may be proposed in either branch of the Legislature; and if the same, being read on three several days in each branch, be agreed to on its third reading, by a majority of the members elected thereto, the proposed amendment, with the yeas and nays thereon, shall be entered on the journals, and referred to the Legislature at the

first session, to be held after the next general election; and shall be published at least three months before such election, in some newspaper in every county in which a newspaper is printed. And if the proposed amendment be agreed to during such session, by a majority of the members elected to each branch, it shall be the duty of the Legislature to provide by law for submitting the same to the voters of the State for ratification or rejection. And if a majority of the qualified voters, voting on the question at the polls held pursuant to such law, ratify the proposed amendment, it shall be in force from the time of such ratification, as a part of the constitution of the State. If two or more amendments be submitted at the same time, the vote on the ratification or rejection shall be taken on each separately.

Respectfully submitted,

A. CUSHING,

*Chairman.*

# REPORT OF THE COMMITTEE OF THE WHOLE.

## CORPORATIONS.

The Committee of the Whole to whom was referred the report of the Committee on "Taxation and Finance, Corporations and Education," have had the subject of "Corporations," specially, under consideration, and have directed me to report the same to the Convention, with such amendments as were agreed to in Committee of the Whole.

The words included in bracketts, thus, [] were stricken out of the original text and the words in *italics* inserted.

### ARTICLE ——.



1. The Legislature shall provide for the organization of all corporations hereafter to be created, by general laws, uniform as to the class to which they relate; but no corporation shall be created by special laws, or its charter extended, changed or amended, except those for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the State.

2. The stockholders of all corporations, and *incorporated* joint stock companies, except banks and banking institutions, created by the laws of this State, shall be liable for the indebtedness of such corporation to the amount of their stock subscribed and unpaid, and no more.

3. All existing charters or grants of special or exclusive privi-
leges, under which organization shall not have taken place, or
which shall not have been in operation within one year from the
time this Constitution takes effect, shall thereafter have no valid-
ity or effect whatever.

4. The Legislature shall provide by law, that in all elections
for directors or managers of incorporated companies, every stock-
holder shall have the right to vote, in person or by proxy, for the
number of shares of stock owned by him, for as many persons as
there are directors or managers to be elected, or to cumulate said
shares, and give one candidate as many votes as the number of di-
rectors, multiplied by the number of his shares of stock, shall
equal, or to distribute them on the same principle among as many
candidates as he shall think fit; and such directors or managers
shall not be elected in any other manner.

5. No law shall be passed by the Legislature, granting the right
to construct and operate a street railroad within any city, town or
incorporated village, without requiring the consent of the local
authorities having the control of the street, or highway, proposed
to be occupied by such street railroad.

BANKS.

6. The Legislature may provide, by a general banking law, for
the creation and organization of banks of issue or circulation, but
the stockholders of any bank authorized by laws of this State,
whether of issue, deposit or discount, shall be personally liable to
the creditors thereof, over and above the amount of stock held by

them respectively, to an amount equal to their respective shares, so held, for all its liabilities accruing while they are such stockholders.

RAILROADS.

7. Every railroad corporation organized or doing business in this State, shall annually, by their proper officers, make a report, under oath, to the Auditor of Public Accounts, "*of this State,*" or some officer to be designated by law, setting forth the condition of their affairs, the operations of the year, and such other matters relating to "*their respective*" railroads as may be prescribed by law. The Legislature shall pass laws, enforcing by suitable penalties, the provisions of this section, [and may require that all such corporations shall have and maintain a public office or place, in this State, where transfers of stock may be made, and in which shall be kept for public inspection, books in which shall be recorded such matters relating to stock, stockholders, and transfers of stock, assets, liabilities, and affairs as the Legislature shall, by law, prescribe.] "*and shall require such books to be kept in a public place in this State, as will exhibit the condition of their affairs, which shall be open to inspection, under such regulations as may be prescribed by law.*"

8 The rolling stock, and all other moveable property belonging to any railroad company or corporation in this State, shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the Legislature shall pass no law exempting any such property from execution and sale.

9. Railroads heretofore constructed, or that may hereafter be constructed in this State, are hereby declared public highways, and shall be free to all persons for the transportation of their persons and property theron, under such regulations as shall be prescribed by law; and the Legislature shall, from time to time, pass laws, applicable to all railroad corporations in the State, establishing reasonable maximum rates of charges for the transportation of passengers and freights, and providing for the correction of abuses, the prevention of unjust discrimination between through and local *or way* freight and passenger tariffs, *and for the protection of the just rights of the public*, and shall enforce such laws, by adequate penalties.

10. *The Legislature shall in general law authorizing charters to corporations, require railroad companies, whose road shall run through or near a town or village, containing three hundred or more inhabitants, to erect stations or depots, for the accommodation of the trade and travel of said town or village.*

11. *No railroad corporation shall consolidate its stock, property or franchise, with any other railroad, owning a parallel or competing line.*

[10.] 12. The exercise of the power and the right of eminent domain shall never be so construed, or abridged, as to prevent the taking, by the Legislature, of the property and franchises of incorporated companies already organized, and subjecting them to the public necessity, the same as of individuals.

D. D. JOHNSON,
*Chairman of the Committee of the Whole.*

# REPORT OF COMMITTEE OF THE WHOLE.

The "Committee of the Whole," to whom was referred the report of the Committee on "Taxation and Finance," have had the same under consideration, and have directed me to report the same to the Convention with the following amendments thereto, viz:

The words included in brackets thus [ ] stricken out, and the words in italics inserted.

## ARTICLE ——.

### TAXATION AND FINANCE.

1. [The Legislature shall provide such revenue as may be neces-
2 sary by levying a tax, by valuation, so that every person and cor-
3 poration, shall pay a tax in proportion to the value of the property
4 belonging to them, respectively; such value to be ascertained as
5 the Legislature shall direct. *Provided*, That the Legislature shall
6 have power to exempt from taxation agricultural products grown
7 directly from the soil, and in the hands of the producer, and all
8 other products of labor and capital, including live stock, produced
9 within the limits of the State during the year preceding, and re-
10 maining in the hands of the producer. But] *Taxation shall be equal*
11 *and uniform throughout the State, and all property, both real and per-*
12 *sonal, shall be taxed in proportion to its value, to be ascertained as directed*
13 *by law. No one species of property, from which a tax may be col-*
14 *lected, shall be taxed higher than any other species of property of equal*
15 *value; but property used for educational, literary, scientific, religious,*
16 *or charitable purposes, all cemeteries and public property, may, by*

*law, be exempted from taxation.* The Legislature shall have power to tax, by uniform and equal laws, all privileges and franchises of persons and corporations.

[2. The property of the State, counties, townships, and other municipal corporations, both real and personal, and such other property as may be used, or the proceeds of which may be used, exclusively for agricultural or horticultural societies, for educational, literary or scientific, religious or charitable purposes, or for a public burial ground, shall be exempt from taxation; but such property and use shall be determined in such manner as the Legislature shall direct by general law, uniform as to the class to which it applies.]

3. The Legislature shall levy an annual capitation tax of one dollar upon each male inhabitant of the State who has attained the age of twenty-one years, which shall be annually appropriated to the support of free common schools. Persons afflicted with bodily infirmity may be exempted from this tax, as the Legislature may direct by general law, and not otherwise.

4. No money shall be drawn from the treasury but in pursuance of an appropriation made by law, and on a warrant issued thereon by the auditor; nor shall any money, or fund, be taken for any other purpose than that for which it has been, or may be, appropriated or provided. A complete and detailed statement of the receipts and expenditures of the public moneys, shall be published annually.

5. No debt shall be contracted by this State, except to meet casual deficits in the revenue, to redeem a previous liability of the State, to supress insurection, repel invasion, or defend the State in time of war, but the payment of any liability other than that for the ordinary expenses of the State, shall be equally distributed over a period of at least twenty years.

6. The power of taxation of the Legislature shall extend to provision for the payment of the State debt, and interest thereon, and the payment of the annual estimated expenses of the State; but whenever any deficiency shall exist in any year, it shall levy a tax for the ensuing year sufficient, with the other sources of income, to pay such deficiency, as well as the estimated expenses of such year.

7. The credit of the State shall not be granted to, or in aid of any county, city, township, corporation or person; nor shall the State ever [assure] *assume* or become responsible for the debts or liabilities of any county, city, town, township, *corporation* or person; nor shall the State ever hereafter become a joint owner or stockholder in any company or association, in this State or elswhere, formed for any purpose whatever.

8. County authorities shall never assess taxes, the agregate of which shall exceed seventy-five cents per one hundred dollars valuation, except for the payment of indebtedness existing at the time of the adoption of this Constitution; unless such assessment, with all questions involving the increase of such aggregate, shall have

been submitted to the people of the county and have received three-fifths of all the votes cast for and against it.

9. No county, city, township, school district, or other municipal corporation, except in cases where such corporations have already authortzed their bonds to be issued, shall hereafter be allowed to become indebted , in any manner or for any purpose, to an amount including existing indebtedness, in the agregate, exceeding five per centum on the value of the taxable property therein, to be ascertained by the last assessment for State and county taxes, previous to the iucurring of such indebtedness, nor without, at the same time, providing for the collection of a direct annual tax, sufficient to pay annually, the interest on such debt, and the principal thereof, within [twenty] *thirty-four* years.

[10. But nothing herein contained shall prohibit the Legislature from vesting the corporate authorities of cities, towns and villages with power to make local improvements by special assessments. or by special taxation of contiguous property, or otherwise. For all other corporate purposes, such corporations may be vested with authority to assess and collect taxes; but such taxes shall be uniform with respect to persons and property within the jurisdiction of the body imposing the same.]

10. *The Legislature may, by law, authorixe the corporate authorities of cities, towns, and villages, for corporate purposes, to assess and collect tnxes; but such taxes shall be uniform, with respect to persons and property within the jurisdiction of the authority imposing the same.*

D. D. JOHNSON,
*Chairman.*

# REPORT OF THE COMMITTEE OF THE WHOLE.

The Committee of the Whole to whom was referred the report of the Committee on Taxation and Finance, Corporations and Education, have had the subject of

## FREE COMMON SCHOOLS

specially under consideration, and have directed me to report the same to the Convention, with the following amendments thereto, viz:

The words in brackets, thus—[ ] were struck out in Committee of the Whole, and the words in italics inserted.

## ARTICLE ——.

1. The Legislature shall provide, by general law, for a thorough
2 and efficient system of Free Common Schools, whereby all the chil-
3 dren of this State may receive a good common school education.

2. The State Superintendent of Free Schools shall have a gen-
2 eral supervision of Free Common Schools, and perform such other
3 duties in relation thereto as may be prescribed by law. "*And if*
4 *in the performance of any such duty imposed upon him by the Legis-*
5 *lature, he shall incur any expenses, he shall be reimbursed for all ex-*
6 *penses so incurred by him: Provided, the said sum does not exceed*
7 *five hundred dollars in any one year.*"

3. The Legislature may provide for county superintendents and
2 such other officers as may be necessary to carry out the objects of
3 this article, and define the duties, powers and compensation of such
4 officers, by general laws.

[4. All grants, devises or bequests that may be made to this State,
2 for the purposes of education, or where the purposes of such grants,

devises or bequests are not specified; the State's just share of the Literary Fund of Virginia, whether paid over or otherwise liquidated; and any sums of money, stocks or property which this State shall have the right to claim from the State of Virginia for educational purposes; the proceeds of the estates of persons who may die without leaving a will or heir; all lands or the proceeds of the sale of the same that may be donated to this State by the United States, shall be set apart as a separate fund to be called the permanent school fund, and shall be invested under such regulations as may be prescribed by law, in the interest-bearing securities of the United States or of this State; and the interest thereof shall be annually applied to the support of Free Common Schools throughout the State, and to no other purpose whatever.]

4. *The permanent and invested school fund which shall exist at the adoption of this Constitution, and all money accruing to this State, being the proceeds of forfeited, delinquent, waste and unappropriated lands; and of lands heretofore sold for taxes and purchased by the State of Virginia, if hereafter redeemed, or sold to others than this State; all grants devises or bequests that may be made to this Siate for the purposes of education, or where the purposes of such grants, devises or bequests are not specified; this State's just shure of the Literary fund of Virginia, whether paid over or otherwise liquidated, and any sums of money, stocks or property which this State shall have the right to claim from the State of Virginia for educational pnrposes; the proceeds of the estates of persons who may die without leaving a will or heir, and of all escheated lands; the pro-*

*ceeds of any taxes that may be levied on the revenues of any corpo-*
*ration; all monies that may be paid as an equivalent for exemption*
*from military duty; and such sums as may from time to time be ap-*
*propriated by the Legislature for the purpose, shall be set apart as a*
*separate fund, to be called the school fund; and invested under such*
*regulations as may be prescribed by law, in the interest bearing secu-*
*rities of the United States, or of this State; and the interest thereof*
*shall be annually applied to the support of free schools throughout the*
*State, and to no other purpose whatever. But any portion of said*
*interest remaining unexpended at the close of a fiscal year, shall be*
*added to, and remain a part of, the capital of the school fund: Pro-*
*vided, That all the taxes which shall be received by the State upon*
*delinquent lands, except the taxes due to the State thereon, shall be re-*
*funded to the county or district by or for which the same was levied.*

[5. The Legislature shall annually appropriate, for the support of such schools, the interest of the permanent school fund, the net proceeds of all forfeitures and fines accruing to this State, under the laws thereof; the proceeds of the sale of forfeited, delinquent, waste and escheated lands; all moneys that may be paid for exemptions from military duty; the State capitation tax; the proceeds of any taxes that may be levied on the revenues of any corporation in this State, and all such sums as may be raised by general taxation on property, or otherwise: *Provided*, the said tax on property shall not exceed, in any one year, fifteen cents per one hundred dollars, valuation.]

5. *The Legislature shall provide for the establishment of a thorough*

*and efficient system of free schools. They shall provide for the support of such schools by appropriating thereto the interest of the invested school fund, the net proceeds of all forfeitures, confiscations and fines accruing to this State under the laws thereof; the State capitation tax; and by general taxation on persons and property, or otherwise. They shall also provide for raising, in each county or district, by the authority of the people thereof, such a proportion of the amount required for the support of free schools therein as shall be prescribed by general laws.*

[6. In any county of the State, or in any district into which the said county may be divided for common school purposes, there shall be levied, by taxation, uniform within the jurisdiction levying the same, a sum sufficient, with the distributable school fund derived from the State, to maintain in the said county or district, a school for at least three months in the year: *Provded*, the said tax so levied, shall not exceed thirty cents per one hundred dollars valuation; *and, provided further*, that if the said county or district shall have failed during the preceding year, to maintain a school for the length of time aforesaid, or to levy the said tax for the purpose, its share of the distributable school fund shall revert to the State and become a part of the distributable school fund for the ensuing year. The said county or district may, however, by a special tax, levied by three-fifths of the voters thereof voting on the question, provide for a continuance of the said school for a longer period than three months; but the said levy, so made, shall never, in any one year, exceed twenty cents per one hundred dollars valuation.]

[7. In order to provide the necessary grounds and school-houses, keep them in repair and pay all incidental expenses connected with the operation of the schools, other than the salaries of teachers and county superintendents, the county or district authorities shall create a fund to be called "The Buildidg Fund," to be appropriated exclusively to these purposes To supply the necessary revenue for this fund, they may borrow money upon its credit, and levy an annual tax upon the taxable proyerty of the county or district: *Provied*, the money so borrowed, together with the necessary annual expenses, shall never, in the aggregate, amount to more than can be paid by a levy at the rate of twenty cents on the one hundred dollars valuation, per year, for five successive years. The counties, or the districts into which they may be divided, for common school purposes, shall be liable for all debts incurred for any school property to which they may succeed, and which may remain unpaid by the authorities creating the said debts,] .

7. "*The school districts into which any county is now divided, shall continue until changed in pursuance of law.*"

[8. All levies laid by any county or district, for the purposes of Free Common Schools, shall be reported by the authorities thereof to the sheriffs of the respective counties, who shall collect and disdisburse the same, in such manner as shall be prescribed by general laws. The compensation for collecting said levies shall never exceed three per cent., and no allowance shall be made for the disbursement of the same. All money borrowed on account of the Building Fund, or in any way accruing thereto, shall be paid into

the hands of the sheriff, and be by him disbursed, upon proper orders, without compensation. The sheriffs shall give such security for the safe-keeping and disbursement of the school funds as the Legislature shall direct, and make with the proper authorities annual settlements, which shall be audited by the county courts and made matter of record by the clerks thereof in a book to be kept for that purpose.]

8. "*All levies laid by any county or district for the purpose of Free Common Schools, shall be reported to the clerk of the county court, and shall be collected by the sheriff or other collector, under suchregulations, as may be provided by law; who shall make annual settlements with the county court; which settlements shall be made a matter of record by the clerks thereof, in a book to be kept for that purpose.*"

9. The Legislature shall make provision for the free common school education of the colored children in the several counties or districts, in the proportion which their number bears to the number of white children therein: but white and colored persons shall not be taught in the same school.

10. No person connected with the Free Common School system of the State, or with any educational institution of any name or grade, under State control, shall be interested in the sale, proceeds or profits of any book or other thing used, or to be used therein, under such penalties as may be prescribed by law. "*Provided that nothing herein shall be construed to apply to any work written, or thing invented by such person.*"

[11. No appropriation, grant or donation of any public money

or property whatever, shall ever be made by the State, in aid of any church or sectarian purpose, nor to support or sustain, in whole or in part, any school or other institution of any grade or name controlled by any church or denomination.]

12. No independent free common school district or organization shall hereafter be created; and the Legislature may repeal, in whole or in part, all or any acts authorizing those already in existence, on such terms as may be deemed just and equitable.

D. D. JOHNSON,

*Chairman Committee of the Whole.*

# REPORT OF COMMITTEE ON LAND TITLES, &c.

The committee to whom was referred the subject of land titles, together with the ninth article of the present Constitution, and various resolutions relating thereto, have according to order had the same under consideration, and respectfully submit the following

## REPORT.

### ARTICLE ——.

1. All private rights and interests in lands in this State derived
2 from or under the laws of the State of Virginia, and from or
3 under the Constitution and laws of this State prior to the time this
4 Constitution goes into operation, shall remain valid and secure,
5 and shall be determined by the laws in force in Virginia, prior to
6 the formation of this State, and by the Constitution and laws in
7 force in this State, prior to the time this Constitution goes into
8 effect.

2 No entry by warrant on land in this State shall hereafter be
2 made.

3. All title to lands in this State heretofore forfeited, or treated
2 as forfeited, waste and unappropriated, or escheated to the State of
3 Virginia, or this State, or purchased by said States at sales made
4 for the non-payment of taxes, and become irredeemable, or here-
5 after forfeited or treated as forfeited or escheated to this State, or
6 purchased by it, and become irredeemable, not redeemed, released

or otherwise disposed of, vested and remaining in this State, shall be, and is hereby transferred to and vested in any person (other than those for whose default the same may have been forfeited or returned delinquent, their heirs or devisees,) for so much as such person has or shall have had actual continuous possession of, under color or claim of title for ten years, who shall have paid the State taxes thereon, for any five years during such possession: or if there be no such person, then to any person (other than those for whose default the some may have been forfeited, or returned delinquent, their heirs or devisees,) for so much of said land as such person shall have title or claim to, regularly derived, mediately or immediately from, or under a grant from the Commonwealth of Virginia, or this State, not forfeited, which but for the title forfeited would be valid, and who has, or shall have paid all State taxes charged or chargeable thereon for five successive years, after the year 1865, or from the date of the grant, if it shall have issued since that year.

But in all cases of conflicting claims to such lands, the parties shall be left to the strength of their respective titles, or claims.

4. All lands in this State, waste and unappropriated, or heretofore or hereafter for any cause forfeited, or treated as forfeited, or escheated to the State of Virginia or this State, or purchased by either and become irredeemable, not redeemed, released, transferred or otherwise disposed of, the title whereto shall remain in this State till such sale as is hereinafter mentioned be made, shall by proceedings in the Circuit Court of the county in which the lands, or a part thereof, are situated, be sold to the highest bidder.

5. The former owner of any such land, shall be entitled to receive the excess of the sum for which the land may be sold over the taxes charged and chargeable thereon, or which, it the land had not been forfeited, would have been charged or chargeable thereon since the formation of this State, with interest at the rate of 12 per centum per annum, and the costs of the proceedings, if his claim be filed in the Circuit Court that decreed the sale within two years thereafter.

6. It shall be the duty of every owner of land to have it entered on the land books of the county in which it or a part of it is situated, and cause himself to be charged with the taxes thereon and pay the same. When for any five successive years after the year 1869, the owner of any tract of land containing one thousand acres or more, shall not have been charged on such books with State tax on the land, then by operation hereof, the land shall be forfeited and the title thereto vest in the State. But if for either of such five years the owner shall have been charged with State tax on any part of the land, such part thereof shall not be forfeited for such cause. And any owner of land so forfeited or any interest therein at the time of the forfeiture thereof, who shall then be an infant, married woman or insane person, may within three years after the removal of such disability, have the land or such interest charged on such books with all State and other taxes that shall be, and but for the forfeiture would be, chargeable on the land or interest therein for the year 1863, and every year thereafter with interest at the rate of ten per centum per annum; and pay all taxes for all such years, and such interest, and thereby redeem the land or interest therein.

## REPORT OF THE COMMITTEE ON SCHEDULE.

The committee to whom was referred the preparation of a Schedule, have had the same under consideration, according to the order of the Convention, and ask leave to submit the following report:

### SCHEDULE.

1. It shall be the duty of the President of the Convention immediately after its adjournment, to certify to the Governor of the State of West Virginia, an accurate transcript of the Constitution and Schedule adopted by the Convention.

2. Upon the receipt of such certified transcript, the Governor shall make proclamation of that fact, and shall annex to his proclamation a copy of this Constitution and Schedule, all of which shall be published for the general information of the people, in such manner as he shall deem most expedient.

3. The officers authorized by existing laws to conduct general elections, shall cause elections to be held at the several places of voting, established by law in each county, on the —— day of August, 1872, at which election the votes of all persons qualified to vote for members of the Legislature, and offering to vote, shall be taken upon the question of ratifying or rejecting this Constitution and Schedule. Such votes shall be by ballot, either open, secret or sealed, as each voter may elect. The person voting for the ratification of the Constitution and Schedule, shall have written or printed upon his ballot, the words "FOR RATIFICATION;" and the

person voting against ratification shall have written or printed upon his ballot, the words "FOR REJECTION."

4. The said election shall be conducted in all things according to the provisions of the Code of West Virginia, and the amendments thereto, governing elections, except as is herein otherwise provided.

5. The supervisors of each county shall assemble on the fifth day after the said election, and proceed to ascertain the result of the same in the manner prescribed by the sixty-second section of the third chapter of the Code of West Virginia; and it shall be their duty to certify the result, without delay, to the Governor, stating in their certificates the number of votes given in their respective counties for ratification of the Constitution and Schedule, and the number given for their rejection.

6. It shall be the duty of the Governor upon receiving the said certificates, or a sufficient number thereof to enable him to ascertain the general result, to declare by proclamation the aggregate vote in the State for and against the ratification of the Constitution and Schedule; and if it shall appear from the said proclamation that a majority of votes have been cast in favor of its ratification, this Constitution shall become the supreme law of the State, from and after the 1st day of October, 1872; and all statutes inconsistent with its provisions shall thereafter be void.

7. On the same day and under the superintendence of the officers who shall conduct the election for determining the ratification or rejection of the Constitution and Schedule, elections shall be

held at the several places of voting in each county, for Senators and members of the House of Delegates, and all officers, executive, judicial, county or district required by this Constitution to be elected by the people. Such elections shall be by ballot, either open, sealed or secret as each voter may elect, and the results thereof shall be ascertained, determined and certified according to the provisions and requirements of existing laws, except that the returns of the elections of Governor, State Superintendent of Free Schools, Auditor, Treasurer and Attorney General shall be transmitted to the Secretary of State, sealed and addressed to the Speaker of the House of Delegates.

8. In elections of county officers required to be elected by districts, the existing sub-divisions, by townships, in each county shall constitute such districts, until others shall be established.

9. Each county shall elect one assessor for each assessment district, as now established by law; but at the election to be held under the provisions of this Schedule, in counties entitled to two assessors, both shall be elected by the voters of the entire county.

10. At the election to be held under this Schedule, there shall also be elected in each district, constituted as hereinbefore stated, one or more constables, as is provided for by the —— section of article ——, of this Constitution.

11. If this Constitution shall be ratified by the people, the Legislature, elected under this Schedule, shall assemble at the seat of government, on the third Tuesday in November, 1872; and the seats of the members elected under the present Constitution shall be vacated from and after the first day of October, 1872.

12. The terms of office of the Governor, the State Superintendent of Free Schools, the Auditor, Treasurer and Attorney-General shall commence on the 4th day of March, 1873.

The terms of office of the Judges of the Supreme Court of Appeals, of the Judges of the Circuit Courts, and of all county and district officers, whose election is provided for by this Schedule, shall commence on the 1st day of January, 1873, on which day the terms of all such officers, elected or appointed under the provisions of the existing Constitution and laws, shall cease, except as may be herein otherwise declared.

13. The January term of the Supreme Court of Appeals, as now prescribed by law, shall be held by the Judges of that court elected under this Schedule; but the holding of its subsequent terms shall be provided for by law.

14. All the books, records and papers now in the custody of the boards of supervisors or their clerks in each county, shall be transmitted to the clerk of the county court of such county, and remain in his custody until they can be transferred to such tribunal as may succeed to the local and fiscal duties of the present boards of supervisors.

15. Justices, assessors and all other county officers, except sheriffs and constables, shall transfer to their successors in office, all official books, records, papers and property in their possession; and in cases where, from the abolition of any office, or from any other cause a doubt shall arise as to the officer entitled to receive them, they shall be delivered to the clerk of the county court for preservation, until disposition be made of them by that court.

16. All county, township, district and other officers connected with the existing system of free common schools shall continue to perform the duties of their respective offices, as now prescribed by law, until provision shall be made by the Legislature for the election and qualification of their successors.

17. The records, books, papers, seals, and other property and appurtenances of the existing circuit courts, in this State, shall be transferred to, and remain in the care and custody of, the circuit courts established by this Constitution; to which courts all process outstanding, at the time this Constitution shall go into effect, shall be returned, and by which all new process, proper in cases either pending or determined in existing courts, may be issued. And all indictments, prosecutions, suits, pleas, petitions and other proceedings pending in the present circuit court of any county shall be prosecuted, to final judgment and execution, in the circuit court established in that county by this Constitution; except, that all pending appeals from justices may be transferred to the county court organized in such county.

18. Copies and transcripts of the records and proceedings of the present circuit courts shall be made and certified by the circuit courts established by this Constitution, or the proper officers thereof, and shall have the same force and effect as if they had been heretofore properly made and certified by the existing courts or their proper officers.

19. Recognizances, bonds, obligations, and all undertakings entered into, or executed, before the adoption of this Constitution

to the State of West Virginia, or to any public officer, corporation, township, or county, shall remain binding and valid; and all rights and liabilities growing out of them, shall be unimpaired. And all contracts and agreements heretofore made, or now pending, shall be as valid as if no change had been made in the Constitution of the State.

20. To avoid, so far as may be possible, inconvenience to the people of West Virginia, by reason of the alterations made in its organic law.....

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are appointed commissioners, who, in the event of the adoption of this Constitution and Schedule, shall immediately proceed to modify and conform the code and statutes of the State to all the requirements of this Constitution. They shall sit at some convenient place or places, to be determined by themselves, and be entitled to a compensation of ——— dollars *per diem* while actually employed, and shall also receive mileage, at the rate allowed by existing laws to members of the Legislature, for every mile necessarily traveled in the performance of their duties. They are further authorized to employ a competent clerk, whose compensation shall not excced —— dollars *per diem.* during the period he shall be actually engaged. They shall make a full report of their action to the Governor, in time to be communicated by him to the Legislature at the commencement of its next ensuing session. Any vacancy occuring in the said commission, after the adjournment of the Convention, shall be filled by appointment by the Governor.

JNO. BLAIR HOGE, *Chairman.*